



Child Support Enforcement: Implementing the Legislative Reforms of 1999

Background

In 1999, the California Legislature passed, and the Governor signed, a package of bills which made significant changes to the organization, administration, and funding of the state's child support enforcement program. Generally, these reforms significantly increased state authority and oversight over the program, and changed state administrative responsibility for developing the statewide child support automation system.

Among the more significant changes are the creation of a new state Department of Child Support Services (DCSS); the transfer of local administration from the county district attorneys to separate county child support agencies; and the transfer of responsibility for procurement of the automation system from the state Health and Human Services Data Center (HHSDC) to the Franchise Tax Board (FTB).

Findings and Recommendations

Our findings and recommendations include the following:

- ❖ In order to maximize collections, the state should allocate administrative funds (either new or existing) to county agencies based on their relative levels of cost-effectiveness, as measured by increased collections resulting from increased administrative expenditures.
- ❖ In order to minimize the federal penalties related to automation, efforts should be taken to (1) meet federal certification requirements first and foremost, (2) minimize additional major changes to the child support program, (3) streamline the procurement process, and (4) ensure more efficient control agency oversight.
- ❖ In order to avoid automation mistakes of the past, DCSS should (1) provide strong leadership and sponsorship to the new automation project and (2) define its policies and practices before proceeding with the new automation system. The FTB, acting as DCSS' agent for the procurement and development of the new system, should (1) employ good project management and contract administration practices and (2) ensure that the procurement is focused on the business needs of DCSS and the counties.



INTRODUCTION

The primary purpose of California's child support enforcement program is to collect, from absent parents, support payments for custodial parents and their children. Child support offices in the state's 58 counties provide services such as locating absent parents; establishing paternity; obtaining, enforcing, and modifying child support orders; and collecting and distributing payments. Federal law requires states to provide these services to all custodial parents receiving Temporary Assistance for Needy Families (TANF, which is the California Work Opportunity and Responsibility to Kids [CalWORKs] program in California)

and, on request, to non-TANF parents. Child support payments collected on behalf of TANF families historically have been used primarily to offset the federal, state, and county costs of TANF grants. Collections made on behalf of non-TANF parents are distributed directly to these parents.

Prior to recent legislative reforms in California, the program was administered at the local level by the county district attorneys (DAs), with state oversight by the Department of Social Services (DSS). The counties were authorized to refer certain delinquent cases to the (FTB) for collection.

MAJOR PROVISIONS OF THE LEGISLATIVE REFORM PACKAGE

Below we discuss the major provisions of the legislative reforms, which are summarized in Figure 1.

GOVERNANCE

In an effort to improve child support collection performance, the Legislature passed a reform package of bills in 1999, including Chapter 478 (AB 196, Kuehl), Chapter 479 (AB 150, Aroner), and Chapter 480 (SB 542, Burton and Schiff). Together, these acts overhaul the organization, administration, and funding of the program. Below we describe these changes, which generally are intended to achieve more uniformity in service delivery and better performance in the program. We address the creation of a statewide automation system—the subject of Chapter 479—separately in the final section of this report.

Creation of New State Department and New Local Agencies. As of January 1, 2000, state level administration and oversight of California's child support enforcement program was transferred from the Department of Social Services (DSS) to the Department of Child Support Services (DCSS), a newly created department within the state Health and Human Services Agency. (For a discussion of the 2000-01 budget proposal for the new department, see our *Analysis of the 2000-01 Budget Bill*.)

At the local level, child support operations in California's 58 counties will be transferred over the next three years from each DA's office to a newly created county agency. These local child support agencies will continue to refer all cases requiring criminal enforcement to the DA. The legislative reform package expands the role of the

FTB in its delinquency collection program, as described later in this report.

New State Leadership and Increased Accountability. Pursuant to Chapter 478 and Chapter 480, the Governor, with the approval of the Senate, will

appoint a director of the DCSS. The director will be responsible for compliance with all federal and state laws pertaining to the administration of child support enforcement, and completion of a single statewide automation system.

The new DCSS is charged with a number of significant tasks over the next several years. It is required to:

- ◆ Adopt uniform procedures and forms.
- ◆ Establish standard caseworker caseloads.
- ◆ Establish standard attorney caseloads.
- ◆ Institute consistent case closure procedures.
- ◆ Evaluate the business and management “best practices” of the local agencies.
- ◆ Set FTB priorities for collections and target their activities to maximize collections in order to avoid welfare dependency.

Figure 1

Major Provisions of the Child Support Reforms of 1999

- ***Creates New State Department.*** As of January 2000, state-level administration and oversight of the child support enforcement program was transferred from the Department of Social Services to the new Department of Child Support Services.
- ***Shifts Local Administration to New County Agencies.*** At the local level, administrative responsibility will be shifted from the county district attorneys to newly-created county agencies.
- ***Shifts Responsibility for Determining Program Expenditures to the State.*** Responsibility for determining program expenditure levels and how funds will be allocated among the local agencies will shift from the counties to the state.
- ***Establishes a Program Performance Improvement Process.*** Local agency failure to comply with performance plans could lead to state assumption of responsibility.
- ***Revises the County Fiscal Incentive Payment System.*** Establishes new incentives for counties, subject to availability of funding.
- ***Changes Approach for Automation to a Single Statewide System.*** Previously, the approach was county based.
- ***Transfers Responsibility for Procurement of the Automation System to the Franchise Tax Board (FTB).*** Previously, the Health and Human Services Agency Data Center was responsible for procurement.
- ***Requires Performance-Based Procurement for the New Statewide Automation System.*** The procurement for the single statewide system will be based on the vendor's ability to meet preagreed upon program performance levels.
- ***Shifts Responsibility for Interim Automation Systems to the State.*** The state is responsible for determining changes and enhancements to county-based systems.
- ***Establishes a Project Charter for the Statewide Automation System.*** Project charter will describe the governance structure, roles and responsibilities, and the management for the single statewide system.
- ***Requires State to Assume Responsibility for Automation Penalties.*** The state, rather than counties, will be responsible for the federal financial penalties for not meeting deadlines for the statewide system.
- ***Expands the FTB's Child Support Delinquency Collection Program.*** The program will cover a broader range of cases.



- ◆ Develop uniform training protocols for state and local employees.
- ◆ Review and approve the annual budgets of the local agencies.
- ◆ Adopt performance standards for the program.
- ◆ Analyze the collectability of child support and use this information in determining the order of transition of local agencies from the DAs to the new county agency.

In addition to the new director and deputy directors, a number of new positions will be created for regional administrators who will work with counties on performance and compliance. The number of regional administrators will be determined in the state budget, based on caseload. The regional administrators will:

- ◆ Monitor local compliance with state and federal child support regulations and laws.
- ◆ Conduct site visits to the local agencies and report quarterly to DCSS.
- ◆ Notify local agencies of noncompliance.
- ◆ Respond to requests for technical assistance.
- ◆ Participate in the three-phase performance improvement process (described below).

Local Agency Governance. Prior to the transition from the DA's office to the new local agency, each county board of supervisors must appoint an administrator for the child support program. The administrator and his or her staff will be county employees. In order to ensure the stability of local

agencies and to retain child support expertise during and after the transition process, all child support employees working in the DAs' offices (other than the director) may choose to transfer to the new local agencies and will retain employment status and salary.

Performance Improvement Process and State Intervention. The legislation establishes a three-phase performance improvement process to be used when a local agency is out of compliance with the performance standards established by the department. Intended to strengthen state oversight and intervention, the process authorizes DCSS to take an increasingly active role in the daily management of a noncompliant local agency. The three-phase compliance process will be implemented in individual counties effective July 2001 or six months after the county's transition, whichever is later.

The phases are as follows:

- ◆ A performance improvement plan will be jointly prepared by the local agency and DCSS. The plan will include goals, expectations, and time lines regarding compliance and assessment. If a local agency does not meet these expectations in a timely fashion, it will pass into the second phase.
- ◆ The second phase will include onsite evaluation and monitoring of the local agency by DCSS. If failure occurs in phase two, the local agency will pass into phase three.
- ◆ In the third phase, DCSS will assume management of the local child support operations until the agency can demon-

strate its ability to comply and perform at an adequate level.

The DCSS Legislative Reporting Requirements.

Chapter 478 and Chapter 480 require the Director of DCSS to submit status reports to the Legislature periodically. Beginning July 1, 2001 and semiannually thereafter, the director will submit written reports to the Legislature on the status of the child support enforcement program. In addition, the director is required to submit quarterly reports on the progress of all local child support agencies in each performance measure, including the identification of the local child support agencies that are out of compliance, the performance measures each has failed to satisfy, and the performance plan that is adopted for each.

The DAs During the Transition. Child support enforcement activities will continue to be the obligation of the DAs until the transfer of services to the new local department is complete in each respective county. If DCSS finds that a DA has inappropriately lowered funding or decreased services during this period, DCSS is authorized to withhold part or all of that county's state and federal child support funding, including incentive payments. The DAs' staff will continue to provide appropriate legal services during the transition period. Once transferred, the local agency will be permitted to contract with the DAs for limited legal services until September 2004.

Transition Schedule for Local Agencies. The transfer of local operations from the DAs to a new county department will begin by January 2001 and continue until January 2003. Individual counties may be permitted to transfer prior to January 2001 if the county has appointed a child support administrator and approved a transition plan.

In determining the order of county transitions, the Director of DCSS will consider county performance and the impact of potential service delivery disruptions. Local child support agencies representing at least 50 percent of the statewide caseload are to be transferred annually from the DAs' offices beginning in January 2001. The transfer process is to be completed by January 1, 2003.

THE FTB CHILD SUPPORT COLLECTIONS PROGRAM

Program History. In 1993, the FTB began a pilot project to collect delinquent payments in six counties. Two years later, the delinquent collection program was expanded to include all counties. Currently, the FTB is responsible for collecting child support payments delinquent 90 days or more. At the option of the county district attorney, the FTB may also collect payments delinquent for 30 days or more as well as current support payments. The counties retain management responsibility for all cases, and all debtor disputes are referred to the county. Further, a county can pull a case back from the FTB before collection has been completed.

The FTB's role is to locate assets and collect owed amounts. It does this by issuing a levy against bank accounts, wages, or other income, or seizing both real and personal property. Most often if the delinquency is collected, it is done through bank account and wage levies. However, only about 6 percent of all cases referred to the FTB are collected. For 1998-99 the FTB collected almost \$68 million in child support delinquent payments from an inventory of over 526,000 cases.

New Program. Chapter 480 and related legislation fundamentally changed and expanded the



FTB's responsibilities for child support collections. Under the new program, the FTB will receive all cases where delinquent payments exceed \$100 and are more than 60 days in arrears. This is expected to double the FTB's caseload to approximately one million cases. The FTB will have a three-year time period (ending December 31, 2002) in which to phase in the additional caseload.

The legislation also directs FTB to design a computerized database to centralize information regarding each case and establish a customer information center. Further, the FTB is directed to contract with third parties, where necessary, to locate debtors and debtor assets. Finally, the legislation provides that if a debtor has both a child support delinquency and a personal income tax delinquency, the FTB is to collect the child support delinquency first.

Statewide Automation System. Chapter 479 transfers responsibility for procurement of the statewide automation system for child support from the Health and Human Services Data Center (HSDC) to the FTB. We discuss this in the final section of this report.

FUNDING

Program Fiscal Structure. Prior to the child support reform legislation, counties were responsible for determining how much money to spend at the local level on child support collection activities. Most of the funding, however, was provided by the federal and state governments. The federal government paid two-thirds of county administrative expenditures and made incentive payments to states designed to encourage counties to collect child support. California passed the federal incentive payments to the counties along

with additional state incentive payments. These combined incentive payments were used by counties to support their share of program costs and were sufficient to cover almost all county costs in recent years.

Historically, one of the major fiscal effects of child support collection efforts has been the reduction of welfare grant expenditures. This is because child support payments, less \$50 monthly, that are collected on behalf of CalWORKs families have been used to offset the public costs of CalWORKs grants. (The first \$50 of monthly payments is distributed directly to the family.) The CalWORKs grant savings have been shared by the federal, state, and county governments in proportion to their expenditures on grant payments, with approximately 51 percent of savings returned to the federal government. Of the nonfederal portion, 95 percent is returned to the General Fund and 5 percent is returned to the counties. Child support collections have also resulted in savings in the foster care program. The budget estimates \$593 million in CalWORKs and foster care savings (\$306 million federal, \$257 million state, and \$30 million to counties) in 1999-00.

Another major fiscal effect of the child support program is its impact on the CalWORKs caseload. To the extent that child support payments collected on behalf of non-CalWORKs families have kept these families from going on public assistance, they have resulted in CalWORKs grant avoidance savings. These savings are difficult to measure and we do not have an estimate.

Legislative Changes in Current-Year Funding. The legislative reform package (Chapter 478, Chapter 479, and Chapter 480) and the human services trailer bill to the *1999-00 Budget Act*—

Chapter 147, Statutes of 1999 (AB 1111, Aroner)—made significant changes to the budgeting practices of the child support program. Prior to the passage of these laws, local child support budgets were neither reviewed nor approved at the state level. Counties determined expenditures at the local level and paid most of these costs with federal reimbursements and federal and state incentive funds. Pursuant to the legislative reform package, however, the responsibility for determining the program expenditure levels (including the allocation of funds among the local entities) moves from the counties to the state.

The state will also determine how funds will be allocated among the local agencies. Specifically, under the new legislation, the state will continue to allocate the federal and state incentive payments to the local agencies, but the department is revising the method of distributing these funds. The legislation limits the combined total of incentive payments to 13.6 percent of collections, which is equal to the amount included in the *1999-00 Budget Act*. Prior to the reforms, incentives paid to the counties were calculated as a flat percentage of collections (with the percentage varying by county according to performance on certain measures).

Pursuant to Chapter 147, state incentive payments will now be used first to fund “reasonable” county administrative costs. Rather than receiving funds according to an incentive payment formula, however, counties will submit budget requests to DCSS. Counties may also apply for State Investment Funds (SIF). The SIF, reenacted in the child support reform package, allows for up to \$20 million from the General Fund and additional federal matching funds to be used by counties to imple-

ment new or enhanced processes that directly increase child support collections. Under certain circumstances, a county is required to repay these funds to the state, depending on performance in collections. The reform package extends the time a county has to repay SIF and requires DCSS to report on the program by June 30, 2000.

New State Incentive System. Any funds remaining after the regular allocation (pursuant to the department’s review of county budget requests) will be awarded to up to ten counties to reward performance in two areas. In the first area, up to five counties will be paid incentives based on collections per case for welfare and former welfare cases. In the second area, up to five counties will receive incentive payments based on the greatest improvements in these collections from one year to the next. Counties receiving funds under this incentive system must use the payments to reinvest in the child support program.

Finally, the reform package creates an additional incentive system component under which counties will be encouraged, but not required, to reinvest in the child support program. These funds will be appropriated annually through the budget process. Under this incentive program, the counties with the ten highest welfare and former welfare collections per case will receive an amount equal to 5 percent of their collections in these areas.

BUDGETING PROCESS NEEDS CLARIFICATION

As indicated above, the department has the responsibility to review and approve local agency budgets. In addition, current law requires that state funds appropriated for the program shall first



be used to fund local administrative costs, which shall be limited to “reasonable amounts in relation to the scope of services and the total funds available.” If the total allowable amount claimed by the local agencies exceeds the budget act appropriation, the allocations shall be reduced by a prorated amount. If the local costs are *less* than the appropriation, the remainder can be allocated for the newly-established incentive payments.

Does “Reasonable Amounts” Provision Govern Budget Approval Process?

There is some question whether the reasonable amounts provision is intended to govern only the reimbursement of costs claimed by the local agencies, or whether it should also apply to the department’s process of approving the budgets submitted by the local agencies. For purposes of allocating funds to the counties in the current year, the department has defined reasonable amounts as costs eligible for federal reimbursement, but has also linked the reasonable amounts provision to the budget approval process. Specifically, the department is approving all county budget requests (to the extent permitted by the budget act appropriation) that meet the reasonable amounts definition. Staff in the department, moreover, indicate that the department’s ability to *disapprove* a local agency budget proposal would depend on how reasonable amounts is defined.

We believe that applying this provision to the budget approval process is unnecessarily restrictive in that it could preclude the state from exercising control over the allocation of funds among the local agencies. Without redefining what is “reasonable,” the department would essentially be locked into approving the local agency budgets,

and would not have discretion, for example, to reallocate funds from less efficient counties to more efficient counties (as we later recommend in this report), even when such a reallocation is likely to increase total child support collections.

LAO Recommendation

In our view, the reasonable amounts provision was not intended to govern the budget approval process. To do so would be inconsistent with one of the basic premises of the legislative reforms—that responsibility for the program is transferred from the counties to the state. Consequently, we recommend that this issue be addressed during budget hearings in order to clarify legislative intent and, if necessary, that legislation be enacted to specify that the reasonable amounts provision applies to the reimbursement of costs and is not intended to place constraints on the department in carrying out its responsibilities to approve local agency budget proposals.

HOW CAN PROGRAM PERFORMANCE BE IMPROVED?

Past Research Suggests Program Underinvestment

In previous analyses, we have shown that the principal goal of the program—the collection of child support—is strongly related to the amount of fiscal resources committed to the program (administrative expenditures). It does not necessarily follow, however, that increasing program spending (and the resulting increase in collections) will be cost-effective to government. This will depend, in large part, on how much it costs to achieve the additional collections. In addressing this question, we found that (1) the counties vary significantly in their levels of cost-effectiveness, as measured by the ratio of collections to costs, and (2) it is likely

that an increase in expenditures in many of the counties would yield not only an increase in collections, but net savings to the state due to the welfare grant reductions that result from collections on behalf of these families.

We also found that the funding structure of the program—whereby the counties ultimately determined expenditure levels—tended to result in an “underinvestment” of resources in the program. This is primarily because (1) in many cases, counties did not benefit fiscally from the program and therefore had no fiscal incentive to increase spending even when such spending would benefit the state, or (2) in other cases, counties probably would benefit but, without having any assurance of such an outcome, did not want to risk an increase in spending. (For more detail on these findings, please see *The 1992-93 Perspectives and Issues* and our April 1999 report entitled *The Child Support Enforcement Program From a Fiscal Perspective: How Can Performance Be Improved?*)

Reforms Create New Opportunity

Under the new reforms, control over spending will shift to the state, creating an opportunity to allocate resources so as to increase both collections and state savings. To achieve this, additional spending should occur in those counties, or local program sites, where

there is reason to believe that the resulting increase in collections will be sufficient to yield a net savings to the state. We note that such an investment could be accomplished by a reallocation of funding resources among the counties and/or a net augmentation to the program.

Regardless of the source of funds (reallocation or net augmentation), the state is still faced with the question of how best to allocate program funding among the local jurisdictions. One way to allocate the funds is based on the relative efficiency of counties as measured by their collections to costs ratio. To illustrate this approach, Figure 2 presents two hypothetical examples of counties with different, but generally representative, levels of cost-effectiveness in collecting child support, as measured by their ratios of marginal

Figure 2

Net State Costs (Savings) From \$1 Increase in Spending Under Two Marginal Collections/Costs^a Scenarios

Hypothetical County A: Collections/Cost Ratio = \$3/\$1	
Cost	\$1.00
Federal reimbursement ^b	-.50
Federal incentive payment	-.15
Welfare savings	-.47
Net state costs (savings)	-\$.12
Hypothetical County B: Collections/Costs Ratio = \$1/\$1	
Cost	\$1.00
Federal reimbursement ^b	-.50
Federal incentive payment	-.05
Welfare savings	-.16
Net state costs (savings)	\$.29

^a Ratio of increase in total collections (net of \$50 disregard payments) to increase in total administrative costs.
^b Assumes reduced federal reimbursement due to automation penalties.



collections to marginal costs (that is, the increase in collections that accompany an increase in administrative costs).

In the figure, County A is a relatively cost-effective county which collects an additional \$3 in child support for every additional \$1 spent in administering the program. County B represents a relatively inefficient county which collects an additional \$1 for every \$1 expended. The figure shows that after accounting for federal reimbursements, CalWORKs grant savings, and federal incentive payments, a \$1 increase in spending in County A would yield a state savings (12 cents), whereas a \$1 increase in spending in County B would result in a net state/county cost (29 cents).

Thus, one option would be to reallocate funds from County B to County A. We note, however, that at some point this option could result in significant program disruptions to County B (which, while relatively inefficient, is still providing some programmatic benefits through its efforts), depending on the amount of such reallocations.

A second option would be to augment the program, with the increase limited to those coun-

ties that hold the most promise of using the funds cost-effectively (such as County A in our example). In this respect, we note that county cost-effectiveness can be a relatively dynamic phenomenon. In other words, we would expect it to change over time. Furthermore, historical data are only an indication of what might happen in the future and no guarantee.

LAO Recommendation

After reviewing the historical data on marginal collections and costs among the counties, we believe it would be reasonable to pursue both options (reallocation and augmentation). More specifically, we recommend that the allocation of funds among the counties take into account the counties' cost-effectiveness, as measured by historical increases in collections resulting from increases in administrative expenditures. Given the need for program stability, however, we suggest that any reallocation among the counties be relatively small and gradual—for example, up to 10 percent annually. With respect to the budget for 2000-01, we note that we will review the Governor's proposal for the program in our *Analysis of the 2000-01 Budget Bill*.

CHILD SUPPORT AUTOMATION

BACKGROUND

Earlier Automation Effort Unsuccessful. The Statewide Automated Child Support System (SACSS), a federal and state-mandated computer system, was intended to provide a statewide automated child support enforcement tracking and monitoring capability through the offices of county DAs. Following several years of difficulty and the expenditure of more than \$100 million,

the state terminated its contract with the SACSS vendor and canceled the project in late 1997. As a consequence of failing to implement a statewide system as required by federal law, the state began incurring federal financial penalties in 1999.

County-Based Approach Adopted in 1998. After the failure of SACSS, the Legislature established a county based, rather than statewide, approach for California's child support automation

efforts in the 1998-99 Budget Act and in Chapter 329, Statutes of 1998 (AB 2779, Aroner). Under this approach, the HHSDC was required to deploy a Statewide Case Registry (SCR) and Statewide Distribution Unit (SDU) which would enable the transmission of data and child support monies across county lines in compliance with the federal welfare reform laws.

Chapter 329 required each county to choose one of four possible systems, recommended by HHSDC. In addition, the measure specified that the four systems had to be year 2000 (Y2K) compliant and meet certain federal requirements. In November 1998, HHSDC announced its selection of four systems from which the counties could choose.

Federal Government Rejects Approach. As directed by Chapter 329, the state sought approval from the federal government of the new automation approach. The state described the new consortium approach in documents submitted to the U.S. Department of Health and Human Services (DHHS) in January 1999. In April 1999, DHHS denied the consortium approach and directed the state to develop a single statewide automation system. The Legislature incorporated that direction in concert with the overall child support services reform effort in the form of Chapter 479.

THE NEW APPROACH: CHAPTER 479

Chapter 479 provides specific legislative direction for three major components of California's new child support enforcement system: (1) the single statewide automated system, (2) the roles and responsibilities of the state and the counties, and (3) the funding and penalty allocations resulting from the failed SACCS Project.

Single Statewide Automation System. The statewide automated system as defined by Chapter 479 must be a single statewide system that:

- ◆ Meets all federal certification requirements.
- ◆ Is in compliance with federal and state laws and policies.
- ◆ Is Y2K compliant.
- ◆ Improves child support collections.
- ◆ Shares all data and case files.
- ◆ Allows for standardized county business practices.
- ◆ Provides for timely centralized payment processing and disbursements.

Chapter 479 also requires that the statewide system consist of a county case management function, the SCR and the SDU, and interfaces with other state systems that are necessary to perform the child support services functions. From a technology standpoint, the single statewide system will be based on solutions that can be implemented by multiple vendors and, as technology evolves, can be easily enhanced or modernized.

Project Moves to FTB. An important change in legislative direction under Chapter 479 is the shifting of responsibility for the procurement and implementation of the new statewide system from HHSDC to FTB. The FTB will act as DCSS's agent for the procurement, development, implementation, and maintenance of the new single statewide system. Chapter 479 requires that the same project management practices used by FTB for its



various tax automation projects be utilized when implementing the statewide child support automation system.

Project Charter Required. Chapter 479 also requires the creation of a “project charter.” In most project management methodologies, the project charter is the document which articulates the goals and objectives that an organization is attempting to accomplish when an automation project is undertaken. In addition, the project charter as defined by Chapter 479 must include:

- ◆ A description of the project’s governance structure.
- ◆ The project’s scope.
- ◆ The project’s business requirements.
- ◆ The performance measures which will be included in the new system’s contract.
- ◆ Specification of the contracting authority.
- ◆ Any other elements deemed necessary to successfully procure, develop, implement and operate the new system.

The project charter must be approved by FTB’s Executive Officer, DCSS’s Director, and the Secretary of California’s Health and Human Services Agency prior to the commencement of the project’s procurement phase.

New Procurement Approach. Chapter 479 also provides specific direction to the administration for the procurement of the new statewide system. Specifically, the procurement must:

- ◆ Prequalify vendors based on past performance and implementation of similar systems with other government entities.

- ◆ Support open competition between the prequalified vendors.
- ◆ Provide for interactive discussions between the state and the vendors during the solicitation process.
- ◆ Be based on programmatic requirements as opposed to technology specific requirements.
- ◆ Be based on “best value” where the vendors are allowed to propose solutions that offer the greatest chances for achieving program and project success.

The legislation also mandates that the State Auditor monitor the procurement’s evaluation and selection processes, and then certify that those processes were conducted as specified in the bid document.

Clarified Protest Process. Another important new legislative direction provided in Chapter 479 is the treatment of vendor protests during the project’s procurement effort. The legislation restricts bid protests to participating vendors, allows FTB’s Executive Officer to resolve some of the protests, and provides short time frames for protest resolutions.

Contract Terms. The legislation also provides specific direction in the area of the contract’s terms and conditions. “Terms and conditions” is a phrase used to describe that portion of a contract which provides the contractual protections for the state. Chapter 479 states that the contract should be based on “shared risk,” meaning that the risk for both the success and the failure of the project is shared jointly between the state and the con-

tractor. The Legislature requires that the contractor's payment schedule be based on the delivery of program business functions implemented in a succession of phases. Those payments must be based on achieving some type of predefined performance measures specified in the contract and the project charter.

Another equally important provision of this legislation is the ability of the state to enter into a contract with the winning vendor regardless of the status of any pending protests. Once the intent to award a contract is issued, the state and the winning vendor can enter into a contract based on the contract's terms and conditions. This new legislative direction provides a mechanism for the state to begin work immediately, and not have to wait the usual four months or longer for protest resolution.

Reporting Requirements. Chapter 479 requires that the administration report to the Legislature on a biannual basis on the status of the statewide automation project. These reports can be either written or verbal, and they must include information on the status of the development and implementation efforts for the statewide system. In addition, during the annual budget process, FTB and DCSS will be required to report on the status of the project based on the approved time frames. Any funding changes will be reported to the Joint Legislative Budget Committee through the existing budgetary notification processes.

Time Frames Not Specified. The new legislation is silent as to the time frames for completing the automation effort. In the two previous legislative actions, specific dates were set for delivery of the new statewide system.

Roles and Responsibilities of State and Counties. Chapter 479 provides specific legislative direction on the roles and responsibilities of the state and counties. Under the previous legislation, the counties were required to enter into Annual Automation Cooperation Agreements (AACAs) with the state. Chapter 479 provides additional guidance to the administration as to what specifically needs to be included in those AACAs. Failure to complete an AACAs may result in a loss of funds to the county.

The legislation also requires that the state assume a more active role in overseeing the maintenance and operation of the interim systems (that is, those systems that the counties must operate before the new statewide system is operational). This responsibility was assigned to DCSS, in conjunction with HHSDC.

Penalty and Funding Allocations. Chapter 479 provides general funding direction in four areas:

- ◆ **Automation Funding.** Chapter 479 provides general direction as to the funding of the new statewide system and the interim systems. The state (in combination with federal matching funds) is responsible for funding the development and procurement of the new statewide system and the activities necessary to transition the counties from their current system to the new statewide system. These "transition" activities cover converting data, training staff, and developing interfaces with existing systems. In addition, the state is responsible for funding the *interim* systems, including the ongoing maintenance and operation, enhancements, and any



other activities necessary to ensure their continued operation.

- ◆ **Penalties.** Chapter 479 requires the state to determine the distribution between the state and local governments of the federal penalties (a reduction in federal funds for program administration) resulting from the SACSS failure. For the current year, the Legislature approved a one-time General Fund appropriation of \$96 million to offset the penalty. Chapter 479 states that the distribution of penalties between the state and the counties in future budget years will be determined through the annual budget process, and General Fund monies may be used at that time depending on availability of funds. The state may distribute some share of the penalties to the counties based on criteria preestablished by DCSS and the Department of Finance (DOF). Those criteria may take into account the county's adherence to its AACA's work plan, accomplishments in resolving Y2K remediation activities and federal distribution requirements, and cooperation with the statewide system. Los Angeles County is excluded from sharing in penalties incurred prior to the enactment of this chapter.
- ◆ **County Incentive Funds.** In an attempt to offset the state cost of the one-time General Fund augmentation, Chapter 479 provides for "recapturing," or taking back, unencumbered county incentive funds. The legislation provides that all incentive funds received for federal fiscal years 1998 and 1999 and thereafter be transferred to

the General Fund. It then allows the administration to recapture those incentive funds that the counties have not spent or encumbered.

- ◆ **Funding Reductions to Counties.** Under Chapter 479, the state may reduce county administrative funds if the county does not comply with certain state requirements. Specifically, the state may reduce funding when the county does not (1) receive approval of its AACA, (2) meet activities and dates specified in its AACA's work plan, (3) address Y2K remediation activities, or (4) resolve certain federal requirements.

AUTOMATION ISSUES

Two major issues confront the state on the child support automation effort. First, there is the need to minimize the federal penalties as quickly as possible. Second, the state must avoid the mistakes made in previous automation efforts. Figure 3 summarizes our findings and recommendations on these two issues.

How Can the State Minimize the Federal Penalties?

Automation Penalties Result in Loss of Significant Federal Funding. California's child support enforcement program became the subject of federal penalties for failing to meet the October 1997 deadline for SACSS. These penalties are imposed by reducing the federal share of total administrative expenditures. In the current year, the state is facing penalties of about \$100 million, representing an accumulation of penalties from federal fiscal years (FFY) 1998, 1999, and 2000.

Until the statewide automation project meets federal requirements, additional penalties will be assessed annually. For FFY 2001 through 2003, these penalties will be 25 percent, 30 percent, and 30 percent reductions, respectively, of total administrative reimbursements by the federal government. The Governor's budget estimates

that the penalty will be \$102 million in 2000-01 and proposes General Fund support to replace these funds.

Below we offer several steps that the state can take to minimize the federal penalties.

Maximize Efforts to Meet Federal Requirements, Minimize County Customization.

The emphasis of the new statewide system should be twofold. First, the emphasis should be on meeting the federal certification requirements. Meeting these requirements will lead to the termination of the federal penalties imposed on California. Therefore, one of the primary goals of the new statewide system must be to meet the federal certification requirements in the manner prescribed by the federal government.

Second, the emphasis must be on meeting the state's business requirements for the child support enforcement program. In this regard, the legislation envisions a *statewide* system that provides services to clients in a consistent and uniform manner. In general, this will require the establishment of statewide uniform business practices

Figure 3

**Child Support Automation
LAO Findings and Recommendations**

How Can the State Minimize the Federal Penalties?

- Maximize efforts to meet federal requirements, minimize county customization.
- Minimize scope and requirement changes.
- Modify procurement process.
- Ensure that contract can be modified.
- Ensure more efficient control agency oversight.

How Can the State Avoid Past Mistakes?

- Demonstrate strong program leadership and sponsorship.
- Define the program first, automate second.
- Employ good project management practices.
- Take oversight into account when considering schedules and costs.
- Focus the procurement on the business requirements.
- State and contractors should share the risks.
- Ensure proper contract administration.
- Set realistic expectations.



for all counties to follow. In order to achieve this, we recommend that customization to meet individualized local needs be minimized or deferred to ensure statewide consistency and therefore relief from the federal penalties. We recognize that some *limited* county customization may be appropriate, as long as such customization is consistent with statewide needs and requirements and does not divert valuable resources from system development and implementation.

Minimize Scope and Requirement Changes.

For an automation effort to be successful in meeting estimated costs and time frames, it must experience minimal changes to its scope and requirements. This is particularly critical for the child support automation project in which the federal penalties continue to increase each year. Changes to the project scope will occur when new mandates are introduced and modifications are necessary to meet those mandates. Every new mandate that the Legislature passes and the Governor signs, will have some impact on the cost and schedule of the new system. In an effort to eliminate the federal penalties, we recommend that legislative and executive changes to the child support program be minimized during the next three years, except those that are necessary for cost-effectiveness and efficiency in an effort to ensure timely implementation of the new statewide system.

Shorten Procurement Process. State procurements over \$500,000 are currently taking a year to complete. Shortening the procurement cycle would speed up the implementation of the statewide automation system and therefore hasten relief from the federal penalties. Even without the federal penalties facing the state, we believe it is

important to shorten the procurement process in order to bring automation systems on-line sooner. Additionally, a shorter procurement cycle would ensure continued participation and interest by the vendor community.

We believe that there are at least two ways to improve the process. One is to incorporate the use of information technology into the process. This may be as simple as using electronic systems to register vendors, distribute requests, and submit bids. Another improvement is to increase discussions with participating vendors to ensure a better understanding of the current business processes and practices.

We also believe that the state should develop the procurement document and the associated contract in such a manner so as to allow multiple winning vendors. Such a procurement strategy should allow vendors to “pick and choose” those portions of the development and implementation effort that they believe they can provide with the greatest chance of success. We note that such an approach, while important, may have somewhat limited applicability because the contracting department will need a high level of sophistication and experience with project management practices. We do, however, believe that this strategy would provide the following benefits:

- ◆ Development can occur *concurrently* as opposed to sequentially, thereby reducing the overall development time.
- ◆ Some portions of the system could be operational sooner than others, thereby allowing the state to have some leverage with the federal government in reducing the penalties.

- ◆ Reliance on any one single vendor for overall project success would be eliminated.

In addition, the contracts should be constructed in such a manner that would allow the administration to quickly shift tasks from one qualified vendor to another should performance standards not be met. This strategy would allow the state to avoid a lengthy reprocurement process and to keep moving forward towards completion.

Ensure That Contract Can Be Modified. Even though the state has made significant improvements in the terms and conditions of automation contracts more is needed. Most large state contracts need to be amended at some point in the project's life cycle. These contract amendments may take months or even years to negotiate and receive administrative approvals. This lengthy amendment process results in increased project costs and delayed implementation.

Therefore, we believe that the terms and conditions of the contract should allow for increased flexibility between the state and contractor. Specifically, at the end of each implementation phase, the state and the vendor should be allowed to reexamine the business needs of the program and adjust the contract accordingly.

More Efficient Executive Branch Control Agency Oversight. In an effort to minimize project failures, the state control agencies (Departments of Information Technology, Finance, and General Services) have all increased the amount of project oversight and reviews. The general practice is for departments to prepare project documents that are submitted to the control agencies for review and approval. The average review time is three months or longer. While control agency review is

important, with federal penalties increasing annually, extending project time frames for administrative purposes needs to be examined.

In our view, the focus should be on developing information technology oversight strategies that decrease risk but do not significantly increase project time frames. For this reason, we believe that the control agencies should increase their involvement early on in projects through active participation either on project teams, project steering committees, or governing boards. These forums can be used as a means to provide guidance and direction to the project. This practice of earlier guidance and direction would provide value at critical junctures in the project life cycle and allow the project to focus immediately on addressing the overarching needs of the administration. Control agency reviews should then become more simplified and less time consuming.

How Can the State Avoid Past Mistakes?

Demonstrate Strong Program Leadership and Sponsorship. For an automation project to be successful, it must have involved executive leadership and sponsorship from the program area. This is because ultimately the program and policy needs must drive the information technology project. The new child support enforcement automation system is no exception. The DCSS's ownership and sponsorship of both the new system and the interim systems will ultimately determine the success of California's child support reform initiative. We believe that the Legislature needs to ensure that the DCSS's executive team demonstrate full commitment and sponsorship of both the interim and statewide systems. For example, good demonstrations of this kind of commitment and sponsorship would be for the



Legislature to require the Director of DCSS, not FTB, to represent the project at legislative budget hearings, and for DCSS, not FTB, to provide information on project time lines, deliverables, and issues. While we recognize that DCSS and FTB will have shared authority for this project, DCSS is ultimately responsible for its implementation.

Define the Program First, Automate Second.

The state must define its program goals, policies, and procedures first and foremost. Chapter 478 and Chapter 480 clearly state that California will have uniform business practices at both the state and local levels. Key to establishing these uniform business practices will be the establishment of the new department, appointment of the director, and the establishment of the executive team.

Automation will be just one of the mechanisms for ensuring compliance with the uniform business practices. Attempting to automate business practices which are yet to be defined will only lead to “rework” at some point during the automation project. This rework will result in increased automation costs and missed deadlines. Therefore, we believe that the procurement document should not be released until after the project charter is completed and the DCSS policies are formulated.

Employ Good Project Management Practices.

Some portion of the state’s past automation failures can be attributed to poor project management practices. As in the past, we continue to recommend that the state use good project management practices to ensure automation success. Such practices, for example, would include requiring specific workplans and developing processes to manage changes to the system. To the extent that such practices are used, the

state can control project scope creep which often results in increased project costs and missed deadlines. (For a discussion of project management practices, see our December 1998 report entitled *State Should Employ “Best Practices” on Information Technology Projects.*)

We also recommend that the project charter required by Chapter 479 be the guiding document for managing the project, that all participants in the project adhere to its policies and practices, and that the project charter be completed prior to release of any solicitation document for the new system.

Take Oversight Into Account When Considering Schedules and Costs.

In an effort to increase project success, both the administration and the Legislature have increased their oversight levels and involvement in automation projects. As more oversight is added to projects, project resources will be diverted to addressing the needs of the oversight effort. We recommend that the level of oversight first be determined at the time that the project charter is developed. Additionally, the project resource needs associated with that oversight should be calculated in the overall project schedule and cost estimates.

We also believe that the oversight level should be periodically reexamined by all invested parties—the federal government, the administration, and the Legislature—to determine if more oversight is necessary based on changes in deliverable schedules and progress in meeting project milestones. Should additional oversight be necessary at that point, project costs and schedules may need to be modified to include additional oversight costs.

Focus the Procurement on the Business Requirements. We continue to recommend that information technology procurements be based on business requirements as opposed to technical specifications for an automation system. Focusing the solicitation document on clearly stated program performance goals and business needs will result in technical solutions that are designed to enhance program effectiveness and meet the overall needs of the state.

State and Contractors Should Share the Risk. In an effort to reduce project failures, the state has been shifting more and more risk to the vendor community. Current state contract terms and conditions specify various punitive actions that the state may seek against the contractor for poor performance. However, there is no corresponding action for poor state performance. This shifting of risk ultimately results in higher contract costs, less vendor participation, and decreased accountability by the state. Therefore, we recommend that the contract terms and conditions provide incentives for both the state and the contractor to meet performance requirements in a timely manner.

Ensure Proper Contract Administration. One of the reasons for the state's failed automation projects has been the state's inability to adequately administer vendor contracts. Contract administration requires the state to:

- ◆ Clearly articulate what its deliverable expectations are.
- ◆ Establish processes to ensure that the vendor clearly understands those expectations.
- ◆ Closely monitor the vendor's progress in meeting those deliverable expectations.
- ◆ Clearly define criteria and processes for deliverable acceptance.

By following these general practices for contract administration, the state can better ensure that the products it receives from the contract will ultimately meet the business needs of California's child support enforcement program.

Set Realistic Expectations. The automation effort that the state is about to embark on is not going to happen overnight. It is going to take time. It will take time to conduct the procurement, it will take time to develop the automation systems, and it will take time to implement in the counties. We believe that the Legislature should continue its involvement in this automation effort; ask the pertinent questions; and ensure that deadlines, time frames, and costs are both realistic and achievable. Opportunities for legislative oversight can be provided through policy and budget committee hearings and regular briefings throughout the year.



CONCLUSION

Legislative reforms came in the wake of significant criticism of California's child support enforcement program. Taken together, the new laws represent a major change in how the state administers the program. On the other hand, most of the core functions in the process of establishing and enforcing child support orders—particularly the task of locating absent parents—remain largely unchanged, as do many of the obstacles that

confront program staff in the task of collecting child support. Moreover, it will be several years before the new statewide automation system is fully implemented. Thus, it is difficult to predict the near-term impact of the reforms. Nevertheless, we believe that they hold the prospect of significantly improving program performance, and our recommendations are designed to enhance these prospects.

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