

Fiscal Year 2010 Office of Legislative Services Discussion Questions
Office of the Inspector General Response
Mary Jane Cooper, Inspector General

35. The Executive's FY 2010 Budget recommends that the **Office of the Inspector General** receive a \$1.7 million appropriation (excluding the \$1.4 million appropriation to the Office of the Medicaid Inspector General) and be staffed by 17 employees (excluding the 54 employees appropriation to the Office of the Medicaid Inspector General). Established under P.L.2005, c.119, the office is to identify waste, mismanagement, abuse, and fraud in government spending by means of a full-time program of investigation of recipients of State funds, including, but not limited, to State departments and agencies, independent authorities, county and municipal governments, and boards of education. P.L.2007, c.52 later allocated the office "in but not of" the Office of the State Comptroller and transferred the Inspector General's hitherto unused statutory authority to conduct a full-time program of audit and performance review to the State Comptroller. Complaints may be filed with the Inspector General by mail, via its website or statewide toll-free hotline. In response to OLS Discussion Point #34 in the FY 2008-2009 Department of the Treasury Budget Analysis, the office noted that it had received 238 correspondences in calendar years 2006 and 2007, of which about a dozen had spurred reviews by the office.

- **Questions:** Please provide an update on the activities in FY 2009 of the Office of the Inspector General. Which programs and governmental entities is the office currently reviewing or investigating? Which programs and governmental entities is the office planning to review in FY 2010? How many complaints has the office received in calendar year 2008? How many of these complaints spurred a formal investigation by the Inspector General?

OIG Response: Since the Office of the Inspector General (OIG) last appeared before the Legislative Budget Committees, the office has issued several reports and publications concerning its various investigations and reviews conducted. The following OIG reports were issued in FY2009:

Letter to Attorney General Anne Milgram Regarding the Victims of Crime Compensation Agency Letter Released: July 15, 2008

Although OIG's review is in its final stages and a final report is being drafted, while conducting a review of the Victims of Crime Compensation Agency (VCCA) operations, OIG identified substantial items that it believed would be of concern to the Attorney General, whose department was about to become responsible for oversight of VCCA. OIG wrote to the Attorney General to detail certain initial findings and concerns that, in sum, VCCA was inappropriately awarding payments to claimants. After the Attorney General became responsible for VCCA, the Attorney General assigned staff to review the agency's operations and processes and to identify possible improper payments. The then-Executive Director was terminated and the Attorney General assigned a temporary Executive Director and has since assigned a permanent Executive Director.

OIG has met with the United States Department of Justice Inspector General on two occasions, the New Jersey Division of Criminal Justice on two occasions to assist in their review of the program, and

cooperated with the State Ethics Commission. OIG's review and intervention has likely resulted in the rescue of thousands of dollars from potential misuse.

***2008 Summary and Analysis of State Authorities Benefits Review Update
Report Issued: December 3, 2008***

Similar to OIG's work in 2006 and 2007, early in 2008 OIG issued a request of authorities for information and updates regarding certain employee benefits and coordinated the information to complete the latest summary and analysis of State authorities employee benefits. OIG's 2008 update report focuses on employee benefits, bonuses, salaries, leave time, travel and entertainment allowances, cellular phone usages, health benefits and retirement. Among the highlighted items in OIG's 2008 report is a recognition of the reduction in the total number of State authority employees – a decrease of 1,752 employees since OIG's 2007 report. Shining a light on more liberal travel and entertainment policies at authorities has resulted in the authorities amending the policies making them more consistent with State policies; and continued modifications to leave time policies at various State authorities to become more consistent with State policy.

***Supplemental Report: Department of Corrections – Inmate Health Services
Report Issued: December 9, 2008***

OIG's continued investigation into the Inmate Health Services Contract revealed an improper agreement between a former Department of Corrections (DOC) Deputy Commissioner and a Vice President of Correctional Medical Services, Inc. (CMS), the vendor that resulted in DOC's failure to assess approximately \$4.5 million in liquidated damages against CMS for failure to meet certain contract specifications. OIG's investigation also revealed that the Deputy Commissioner falsely testified to OIG and falsely stated to the current DOC Commissioner that the former DOC Commissioner had suspended the assessment of liquidated damages. OIG referred the findings to the Division of Criminal Justice and the State Ethics Commission to determine whether further action was warranted. The Deputy Commissioner is no longer a state employee.

OIG's investigation also revealed approximately \$700,000 in overcharges to the State by CMS. OIG is assisting the Attorney General's Office efforts to recover these funds as well as to discuss the liquidated damages from CMS. Some of the funds have been recovered and the Attorney General is in the process of attempting to recover the rest. While working with DOC, OIG discovered several weaknesses in DOC's procedures and brought those weaknesses to the attention of DOC's procurement department for corrective action.

Additional OIG Information:

In response to OIG's February 2008 report concerning the Meadowlands Remediation and Redevelopment Project, several actions have been taken by the executive and legislative branches. The Governor and the Legislature have responded to OIG's findings concerning the Meadowlands Project by working on an Executive Order and introducing bills that are intended to implement reforms recommended by OIG and impose mechanisms intended to prevent the problems identified by OIG.

These bills are currently pending before the Legislature; both the bill's sponsors and committees considering the legislation have consulted with OIG concerning these measures and the Inspector General has appeared before various legislative committees to discuss OIG's report findings and recommendations.

Moreover, it was recently announced that American Home Assurance Company (AHA), a subsidiary of American International Group, will fund the \$148.8 million cleanup of the former Meadowlands landfills, pursuant to the terms of a performance bond it sold to EnCap, the project's developer, in May 2004. According to the terms of the bond, AHA committed to completing, or paying the costs of, the remaining work on the project in the event EnCap defaulted.

New Jersey Accountability Task Force

The Inspector General was recently asked by Governor Corzine to serve as a member of the New Jersey Accountability Task Force, which is charged with assuring transparency and accountability in the distribution of over \$17 billion of federal stimulus funds in New Jersey on the state and local level. New Jersey is one of 16 states that will be audited by the United State Government Accountability Office (GAO) on an on-going basis for the next several years. GAO will be looking at the States' use of the stimulus funds, accountability for those funds and reporting to Congress on New Jersey's success.

In addition to serving on the Task Force, the Inspector General has offered, and the Task Force has accepted, to assign OIG staff and the use of any office resources that are necessary and appropriate to assist the Task Force in the successful oversight of the billions of dollars in federal stimulus funds coming to New Jersey as Governor Corzine has publicly discussed the critical importance of transparency and accountability of these funds. OIG staff, comprised of attorneys, certified public accountants and auditors, have the particularized skill-sets required of professionals tasked with ensuring accountability including, internal control review, training, education and best practices knowledge and will utilize these skills in assisting the Governor's Task Force with best practices and internal control briefings on behalf of the Task Force.

Constituent Correspondences

In calendar year 2008, the Office of the Inspector General received a total of 92 constituent correspondences, mostly consisting of complaints concerning State agencies/entities or requests for investigations of a State-run program.

All correspondences, whether received from an individual or forwarded from a State agency, State Legislator or the Governor's Office, are properly acknowledged by OIG and reviewed to determine the appropriate course of action. Correspondences are reviewed by the Inspector General and investigative staff to determine if the issue at hand is within OIG's jurisdiction. While OIG does not comment on current, pending or potential reviews and investigations, OIG receives and considers requests from various State agencies and local government entities and prioritizes those cases that will have the greatest fiscal impact and benefit to the State.

36. Addressing OLS Discussion Point #35 in the FY 2008-2009 Department of the Treasury Budget Analysis, the Office of the Inspector General reported that it had signed a Memorandum of Understanding with the New Jersey Schools Development Authority (SDA), (the successor agency to the New Jersey Schools Construction Corporation) that created two permanent Assistant Inspectors General positions in the Office of the Inspector General dedicated to working solely on issues related to the SDA. The SDA reimburses the Inspector General for the cost of the two positions. The Inspector General noted that the two Assistant Inspectors General performed reviews and investigations relating to alleged “fraud, waste, abuse or mismanagement” by SDA employees, contractors, and third persons, such as tenants receiving relocation benefits from the SDA. In addition, the Inspector General advises the SDA on activities related to the SDA’s restructuring.

In April 2005, the office issued its initial report on “weak internal management and financial controls and lax and/or nonexistent oversight and accountability” in the New Jersey Schools Construction Corporation. The report included several recommendations by the Inspector General for stronger internal controls. Subsequently, the office has worked with SDA’s new leadership to remedy the internal control weaknesses. It has also publicly recognized significant improvements and the commitment of the new leadership to reforming the SDA.

- ***Questions:*** Please comment on the work performed in FY 2009 by the two Assistant Inspectors General dedicated to the New Jersey Schools Development Authority. Is the office still playing a role in the restructuring of the authority? If so, please describe its ongoing involvement.

OIG Response: OIG’s 2005 initial report detailed the weak internal management and financial controls and lax or nonexistent oversight and accountability in place at the Schools Development Authority (SDA), formerly the Schools Construction Corporation, an organization charged with building schools and a budget of \$8.6 billion. In that report, the Inspector General recommended to the then-Governor that SDA halt its work and spending until it implements a series of emergent recommendations for internal controls and appropriate spending. The then-SDA President acknowledged that millions of dollars in waste was prevented by this halt. Since that time, OIG has continued to conduct reviews of SDA and certain vendors that have resulted in various reimbursements of overcharges or incorrect payments to SDA.

Pursuant to a Memorandum of Understanding between the SDA and OIG, two full time Assistant Inspectors General are assigned to work exclusively on SDA matters and report directly to the Inspector General. Their responsibilities include investigating and examining various operations of the SDA to assist in ensuring that the activities of the SDA are performed in an economical, effective, ethical, and efficient manner, to help guard against waste, fraud, abuse and mismanagement, and to identify opportunities for cost savings for SDA’s consideration. These Assistant Inspectors General enjoy full and complete access to SDA records and conduct interviews with SDA staff and entities doing business with the SDA. They also attend SDA Board and Committee meetings and conduct bi-weekly meetings with SDA senior staff, including the CEO, to discuss current issues.

Among the work of the SDA OIG during FY 2009:

At this time last year, SDA OIG was working with SDA staff to ensure that SDA post at all of its construction sites signage displaying the OIG Hotline number and encouraging the public to contact the Hotline to report suspicions of waste, fraud or abuse in connection with the use of funding for a school construction project. Since that time, that project has been completed and now signage is posted at all SDA construction sites.

Moreover, SDA OIG recommended that SDA implement the execution of an individual "Absence of Benefits Certification" by all members of SDA staff. In completing this document each staff member certifies that he or she has neither sought, nor received, any item or other thing of value in the past calendar year from an interested party. If an employee has received an item that has not been previously reviewed and approved for acceptance by the Authority's Ethics Liaison Officer, that employee will be required to list all such items or things of value on the Absence of Benefits Certification.

Among the investigations SDA OIG conducted over the last fiscal year, was a case concerning fraudulent actions by a tenant who submitted a falsified lease to the SDA, causing SDA to overpay a rent supplement to the tenant. SDA OIG referred the results of its investigation to the New Jersey Division of Criminal Justice (DCJ) for further action. DCJ subsequently obtained a three count indictment against the former tenant. The matter was ultimately resolved by a plea agreement; the tenant entered a guilty plea to one of the three counts. He was sentenced to three years' probation and was ordered to pay \$10,080 in restitution to the SDA.

Additionally, SDA OIG investigated an allegation that a general contractor had made false certifications to the SDA regarding payments the contractor had made, or would soon make, to a subcontractor. During its investigation, SDA OIG obtained the relevant documents from SDA, including invoices that the general contractor had submitted for the project. SDA OIG also obtained proof that the subcontractor had in fact performed the work and proof that the SDA had paid the general contractor for the work that the subcontractor had performed. The evidence gathered in SDA OIG's investigation indicated that the general contractor may have in fact made false certifications to the SDA regarding the status of payments from the general contractor to its subcontractor. SDA OIG referred the matter to DCJ for determination as to whether or not the conduct described in its report amounted to criminal conduct warranting prosecution.

At any given time, the SDA OIG has many investigations open. For instance, SDA OIG is currently investigating allegations of a demand for a kickback from a fellow employee, improper conduct by a former SDA employee, false certifications by contractors, and whether particular SDA procedures are adequate and if so, are being appropriately utilized.

The Inspector General and two SDA OIG Assistant Inspector Generals have a standing meeting every other week with the Chief Executive Officer (CEO) of the SDA and selected members of SDA staff to discuss ongoing investigations and other matters of concern or interest to SDA OIG or SDA CEO. The meetings have been very productive in bringing important concerns to the surface in identifying possible weaknesses.

37. The Office of the Inspector General has established two permanent **Treasury Assistant Inspector General** positions whose holders are employees of the office assigned full-time to the Department of the Treasury. The Treasury reimburses the Inspector General for the cost of the arrangement. The Assistant Inspectors General work, in part, on overseeing State Contract Managers so as to ascertain effective contract administration and to propose enhancements to contracting policies, if any. Replying to OLS Discussion Point #17 in the FY 2008-2009 Department of the Treasury Budget Analysis, the Office of the Inspector General related that although it still needed to fill the positions, it had always performed the reviews requested by the Treasury. An example of that cooperation was the Inspector General's review of the audit performed by the Contract Compliance and Administration Unit in Treasury's Division of Purchase and Property regarding the monitoring by the Department of Corrections of the dental portion of the \$168 million inmate health services contract the Department of Corrections had with Correction Medical Services (CMS). The review revealed that the department's failure to accurately monitor contractual requirements cost the State between \$3.0 million and \$4.3 million. The University of Medicine and Dentistry of New Jersey has since replaced CMS as the supplier of inmate health services.

- **Questions:** Are the two permanent Assistant Inspectors General positions in the Department of the Treasury filled? If not, why? Please comment on the work performed in FY 2009 by the two Assistant Inspectors General. Is the Office of the Inspector General involved in overseeing State Contract Managers?

OIG Response: Due to budget constraints, the statewide hiring freeze and a reduction in the number of approved OIG Full-time equivalent positions from 19 to 17, the two Assistant Inspector General positions dedicated to work on the Department of Treasury have not been filled. As stated last year, OIG still takes on all reviews requested by Treasury and that work is performed by current OIG staff in addition to their other assignments. However, OIG is not responsible for overseeing State Contract Managers.

At this time last year, OIG cited a recent OIG report regarding its review of the Department of Corrections (DOC) monitoring of the dental portion of its \$168 million inmate health services contract with Correctional Medical Services (CMS). In addition to the findings identified in OIG's first report, OIG wrote that certain observations had been made during OIG's review that required further investigation and analysis and would be reported separately upon completion. OIG completed that subsequent investigation and released its report on December 9, 2008. OIG's investigation revealed that a DOC Deputy Commissioner had misled the Commissioner of DOC and misled OIG investigators. The investigation also revealed an improper agreement between the DOC Deputy Commissioner and CMS Vice President that resulted in DOC's failure to assess the \$4.3 million in liquidated damages and allowed approximately \$700,000 in overcharges to the State by CMS. The DOC Deputy Commissioner no longer works for the State.

Since the release of OIG's first report and going forward, OIG has worked with Treasury and the Attorney General's Office to recover funds for the State.

Additionally during the last fiscal year, OIG began, at the request of Treasury, a review of the Victims of Crime Compensation Agency (VCCA) operations as Treasury had expressed to OIG concerns that VCCA may or may not be following sound fiscal policies and procedures. Initially, OIG identified substantial items that it believed would be of concern to the Attorney General, as the Attorney General's office was soon to become responsible for oversight of the VCCA.

Although OIG's review is nearing completion and a report is being drafted, back in July 2008, near the time the transfer of VCCA oversight was to move from Treasury to the Attorney General's office, OIG wrote to the Attorney General to detail some of the initial OIG findings and concerns, primarily that VCCA was inappropriately awarding payments to claimants. The Attorney General then assigned staff to review the agency's operations and processes and to identify possible improper payments. The then Executive Director of the VCCA was terminated and the Attorney General assigned a temporary Executive Director and subsequently assigned a permanent Executive Director. OIG has met with the Department of Justice Inspector General and the DCJ Director in an effort to maintain the current level of funding for VCCA.

38. In December 2008, the State's first Medicaid Inspector General was appointed to head the newly created **Office of the Medicaid Inspector General**. The Governor's FY 2010 Budget includes a \$1.4 million State appropriation and anticipates \$2.3 million in federal funds for the new office, which is expected to have 54 positions. The appropriation and positions represent reallocations to the Department of the Treasury from the Division of Medical Assistance and Health Services in the Department of Human Services in the course of FY 2009. The Governor's proposed budget also anticipates \$25 million in cost savings from Enhanced Medicaid Fraud Prevention (page 54, FY 2010 Budget-in-Brief).

The "Medicaid Program Integrity and Protection Act", P.L.2007, c.58, authorized the creation of the Office of the Medicaid Inspector General in the Office of the Inspector General. The Medicaid Inspector General is intended to prevent, detect, investigate, and reduce fraud, waste, and abuse in the State's Medicaid program. It has the authority to supervise all State government activities relating to Medicaid integrity, fraud, and abuse, except the activities of the Medicaid Fraud Control Unit in the Department of Law and Public Safety. The federal government matches State expenditures for the office 200 percent through the Medicaid program. Pursuant to the enabling legislation, 25 percent of the State share of the monies recovered by the Medicaid Inspector General must be deposited into the "Medicaid Fraud Control Fund" in the Department of the Treasury to pay for the investigation and prosecution of Medicaid fraud claims by the Office of the Medicaid Inspector General and the Medicaid Fraud Control Unit in the Department of Law and Public Safety. Proposed budget language, however, would transfer all such sums to the General Medical Services account in the Division of Medical Assistance and Health Services in the Department of Human Services. In response to an OLS discussion point in the FY 2007-2008 Department of the Treasury Budget Analysis, the department indicated that the budget language negated diverting \$25 million to \$30 million of funds currently used to support the Medicaid program to the "Medicaid Fraud Control Fund".

- **Questions:** What is the expected timeframe for starting operations and fully staffing the Office of the Medicaid Inspector General? Please describe the planned organizational structure of the office, detailing the number of subdivisions, if any, the hierarchy, and the number of employees within each job title category. In light of the budget language overriding the statutory mandate to deposit monies recovered by the Medicaid Inspector General in the "Medicaid Fraud Control Fund", does the Department of the Treasury intend to permanently break the direct statutory link between recoveries by the Medicaid Inspector General and the Medicaid Inspector General's expenses?
- Please indicate the rationale underlying the \$25 million in savings projected for FY 2010 from enhanced Medicaid fraud prevention. Through which means is the Medicaid Inspector General expected to contribute to that goal? In the office's assessment, how ambitious is that objective?

OIG Response: The response to this question will be provided by the Office of the Medicaid Inspector General directly to the Office of Legislative Services.