



REPORT OF

THE

STATE AUDITOR

**Department of Personnel & Administration
and the State Personnel Board**

**Performance Audit
June 2005**

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June 30, 2005

Members of the Legislative Audit Committee:

This report contains the results of a performance audit of the Department of Personnel & Administration and the State Personnel Board. The audit was conducted pursuant to Section 24-50-103.5, C.R.S., which requires the State Auditor to conduct a performance audit of the Department of Personnel & Administration and the State Personnel Board every four years. The report presents our findings, conclusions, and recommendations, and the responses of the Department of Personnel & Administration and the State Personnel Board.

A handwritten signature in cursive script that reads "Joanne Hill".

TABLE OF CONTENTS

	PAGE
REPORT SUMMARY	1
Recommendation Locator	5
OVERVIEW	7
CHAPTER 1: HIRING AND MAINTAINING A QUALIFIED WORKFORCE	11
Hiring Practices	11
Employee Qualifications	16
Succession Planning	21
CHAPTER 2: MANAGING AND DEVELOPING THE STATE’S WORKFORCE	25
Training	25
Performance Management	30
Resolving Workplace Disputes	33
Human Resource Auditing	38



JOANNE HILL, CPA
State Auditor

Department of Personnel & Administration and the State Personnel Board Performance Audit, June 2005

Authority, Purpose, and Scope

This performance audit was conducted pursuant to Section 24-50-103.5, C.R.S., which requires the Office of the State Auditor to conduct a performance audit of the Department of Personnel & Administration and the State Personnel Board every four years. The audit work, performed between October 2004 and May 2005, was conducted in accordance with generally accepted government auditing standards.

The purpose of the audit was to review the Department's and the Board's operations and oversight of the State personnel system in specified areas including the Department's methods for (1) hiring and maintaining a qualified workforce, and (2) managing and developing the State's workforce. We also evaluated the Board's methods for resolving employee disputes. We did not evaluate the Department's business risk and loss management, employee benefits, or employee compensation programs. These programs are reviewed in other audits conducted by our office.

Overview

The Department of Personnel & Administration administers and enforces the State Personnel System Act of Colorado (Article 50 of Title 24, C.R.S.). Colorado's personnel system is decentralized; in other words, the heads of principal departments and presidents of higher education institutions are responsible for the actual operation of the personnel system for their own organizations.

Within the Department, both the Division of Human Resources, primarily the Workforce Planning and Development Unit, and the State Personnel Board, oversee various aspects of the personnel system. The Board is mostly funded by the State's General Fund while the Workforce Unit is mostly cash-funded from indirect cost recoveries from state agencies and institutions and from training fees. According to the Department's data, as of June 30, 2004, there were approximately 31,500 state classified employees with an average of 9.7 years of service.

Summary of Audit Comments

Hiring and Maintaining a Qualified Workforce

According to Section 24-50-101 (3) (a), C.R.S., the purpose of the State's personnel system is, "to assure that a qualified and competent workforce is serving the residents of Colorado." We reviewed the Department's oversight of state agencies and institutions in this area, and found:

For further information on this report, contact the Office of the State Auditor at 303.869.2800.

SUMMARY

2

Department of Personnel & Administration and the State Personnel Board
Performance Audit - June 2005

- **Oversight of hiring practices needs to be strengthened.** We reviewed a sample of 73 vacancies filled in Fiscal Years 2003 and 2004, and found that state agencies and institutions took an average of 80 days to fill these vacancies. This is 36 days longer than the 44-day national standard identified by 2002 survey data from a number of authoritative human resource management sources. We also found the Department lacks data to measure the timeline for filling vacancies and assess agency practices for recruiting new employees. Further, the Department lacks tools for identifying positions that are hard-to-fill and has not established metrics or benchmarks for assessing agencies' and institutions' hiring processes. A majority of respondents from a survey we conducted of personnel administrators indicate that the hiring process is too lengthy, restrictive, and cumbersome.
- **Review of employee qualifications needs improvement.** We reviewed files for 100 employees at 10 agencies and institutions and found that 36 of the files did not have documentation verifying that employees possessed the licenses and certifications required for the job. We requested information to verify that these 36 employees had the credentials claimed, but were unable to verify 5 degrees. Additionally, we identified three employees with criminal histories. For two of these, the employing agencies were unaware of the offenses. The Department has not developed guidelines for conducting credential and criminal history checks to help agencies and institutions establish policies and practices in these areas.
- **Succession planning tools and assistance should be expanded.** According to the Department's data, more than 70 percent of the state's classified workforce will be eligible to retire in 10 years or less. We found that only 3 of the 12 state agencies and higher education institutions we surveyed have begun planning for the succession of their employees. In addition, agencies and institutions generally have not identified specific positions and critical job competencies for targeting their succession planning. We also found that the Department has only recently begun offering training to state agencies and institutions in this area.

Managing and Developing the State's Workforce

Under statute, the Department is responsible for providing consulting services to agencies and institutions to further their professional management of human resources. We reviewed the Department's role in providing assistance and oversight, and found:

- **Training should be targeted to high-risk areas.** Under current statute (Section 24-50-122, C.R.S.) the Department has specific responsibilities for training state employees, including maintaining training programs, evaluating the effectiveness of training, approving all training expenditures, identifying the training needs of current and anticipated classes of positions, and evaluating training costs to recommend the most economical means of providing training. We found that the Department is not fully accomplishing all of these

statutory duties. Considering the size and number of employees in state government, it may not be reasonable for the Department to approve all training expenditures, evaluate all training statewide, and maintain a training program for all state employees. However, the Department should expand efforts to identify and target its training to help address certain types of training needs (e.g., conflict resolution training to help prevent employee disputes) and to make more cost-effective training available to state employees (e.g., using outside vendors). The Department should also work with the General Assembly to propose statutory changes consistent with its redefined role.

- **Improved oversight of employee performance evaluations is needed.** We reviewed Department information to determine whether agencies and higher education institutions are completing employee performance evaluations on time. We found the information the Department uses is not reliable because it is self-reported and the Department does not verify its accuracy. In addition, the State's employee tracking database (EMPL) cannot be easily queried to summarize, by agency, the number of evaluations that were completed on time and the number that were late. As a result, the Department cannot be assured that state employees are receiving timely feedback on their performance and that performance pay increases are not delayed.
- **Awareness of the State's mediation programs should be enhanced.** We reviewed data on 55 disputes from one mediation program from July 2003 through October 2004 and found that about half of the disputes were successfully resolved through mediation at an average cost of about \$300 per mediation, which is substantially lower than the \$750 required to resolve a dispute through the State Personnel Board. We surveyed 26 personnel administrators and found that 12 have not recommended all mediation services to employees in their agencies or institutions because they were either unaware of the programs or they lacked materials, such as an informational brochure, to share with employees.
- **Employee whistle-blower processes should be streamlined.** Statutes require the Department to conduct an initial investigation into all employee whistle-blower complaints, which are reported to the State Personnel Board before any Board action begins. According to case law related to Section 24-50-125, C.R.S., the Board must conduct its own "de novo" review of whistle-blower complaints; therefore, the Board cannot consider the Department's investigation. This is a duplication of effort which adds to the time and cost of resolution. We estimate the Department spends about \$20,000 annually on these investigations.
- **Human resource audits should be improved.** The Department conducts audits of state agencies' and institutions' human resource management practices. We found that between December 2002 and April 2005 the Department took an average of more than a year to complete each of its 25 audits covering two core human resource functions. As of April 2005, there were 15 audits in progress and the remaining 11 audits had not been started. To streamline its audit process, the Department should pursue alternative methods of oversight,

SUMMARY

4

Department of Personnel & Administration and the State Personnel Board
Performance Audit - June 2005

such as conducting desk audits and agency self-assessments, to evaluate compliance with statutes and rules. This would allow the Department to focus its audit resources in the areas that represent the greatest risk or liability to the State.

Our recommendations and the Department's and the Board's responses can be found in the Recommendation Locator on pages 5 and 6 of this report.

RECOMMENDATION LOCATOR

Rec. No.	Page No.	Recommendation Summary	Agency Addressed	Agency Response	Implementation Date
1	15	Modify ADS or develop another system to capture additional vacancy data; establish guidelines and benchmarks for hiring; and use vacancy data to identify problem areas.	Department of Personnel & Administration	Agree	July 1, 2006
2	20	Develop guidelines for conducting credential and criminal history checks of prospective and current state employees.	Department of Personnel & Administration	Agree	July 1, 2006
3	23	Develop succession planning tools and train state agencies and institutions on planning for the succession of their employees.	Department of Personnel & Administration	Agree	July 1, 2006
4	29	Reevaluate the Department's training role; collect and analyze data to identify training needs; pursue options for training; and propose statutory changes consistent with the redefined role.	Department of Personnel & Administration	Agree	January 1, 2006
5	32	Strengthen oversight of employee performance and evaluation programs by ensuring the employee database will allow queries on timeliness of performance evaluations; verifying a sample of plans and evaluations; using the employee database to assess compliance; and offering training as needed.	Department of Personnel & Administration	Agree	August 1, 2006

RECOMMENDATION LOCATOR

Rec. No.	Page No.	Recommendation Summary	Agency Addressed	Agency Response	Implementation Date
6	37	Improve awareness of the state's mediation programs and work with the General Assembly to eliminate the Department's whistle-blower investigation.	Department of Personnel & Administration	Agree	December 1, 2005
			State Personnel Board	Agree	July 1, 2006
7	42	Improve monitoring of the human resource management practices of state agencies and institutions by considering alternative oversight methods, focusing audits on high-risk areas, sharing best practices, and improving audit planning.	Department of Personnel & Administration	Agree	March 1, 2006

Overview of the State Personnel System

Article XII of the Colorado Constitution contains provisions that create the State's personnel system (the System), the State Personnel Board (the Board), and the Department of Personnel. Since January 2002, the Department of Personnel has been referred to as the Department of Personnel & Administration (the Department). The Constitution also establishes the State Personnel Director (the Director) as the head of the Department and assigns the Director responsibility for administering the Personnel System in accordance with the constitution, state laws, and rules adopted by the State Personnel Board. The State Personnel System Act (Section 24-50-101, et seq., C.R.S.) provides specific direction for the administration of the system, and Board rules establish statewide human resource requirements that apply to all employees within the personnel system.

Colorado has a decentralized personnel system in which the heads of principal departments and presidents of higher education institutions are responsible for the actual operation and management of personnel practices for their respective organizations. Therefore, most state agencies perform their own hiring, employee performance management programs, and workforce development functions, with the Department providing general direction and oversight. Only one state agency, the Department of Treasury, relies entirely on the Department of Personnel & Administration to handle all human resource activities.

Within the Department, both the Division of Human Resources (the Division) and the State Personnel Board oversee various aspects of the personnel system for classified state employees, as described below.

Division of Human Resources

The Division of Human Resources has been delegated the responsibility of carrying out the daily administration, oversight, and management of the personnel system including the following:

- **Workforce Planning and Development.** The Division maintains an automated Applicant Data System (ADS) for applicant selection including the automated online job announcement system and guidelines for the selection process. The Division also provides a range of services to agencies and institutions including oversight of the performance pay system, production of the annual workforce report, training of state employees, audits

of human resource operations throughout the system, and development of hiring exams. In addition, the Division investigates whistle-blower complaints.

- **Total Compensation.** The Division is responsible for negotiating and managing plans for health, life, and disability benefits for state employees and administers the State's 457 Deferred Compensation and the 401(a) Defined Contribution Pension Plans. Additionally, the Division maintains the State's job evaluation and compensation systems including establishing job classes and setting pay. The Division also designs pay-related procedures, such as promotions, hirings, demotions, transfers, shift differentials, leave, and work-life programs.
- **Business Risk and Loss Control Management.** The Division is responsible for supervising the investigation, adjustment, and legal defense of property, liability, and workers' compensation claims for the majority of state agencies. The Division also offers the Colorado State Employee Assistance Program (CSEAP), which provides confidential counseling services to all state employees for personal or work-related problems.

State Personnel Board

The State Personnel Board was created by the State Constitution and consists of five members, each serving a five-year term. Three of the members are appointed by the Governor and two are elected by certified state employees. The Board has a staff of six, including three administrative law judges (ALJs) who hear employee grievances, one Director who is also the Chief Judge, and two support staff members who process and file cases. The Board makes rules governing the state personnel system and hears appeals by applicants and employees in the system. According to Article XII, Section 14, of the Colorado Constitution, the State Personnel Board shall:

... adopt ... rules ... including but not limited to rules concerning standardization of positions, determination of grades of positions, standards of efficient and competent service, the conduct of competitive examinations of competence, grievance procedures, appeals from actions by appointing authorities, and conduct of hearings by hearing officers where authorized by law.

During Fiscal Year 2004 state employees filed more than 300 cases with the Board. Cases presented to the Board included issues of discrimination, whistle-blower allegations, layoff and retention disputes, allegations of wrongful discipline, and other employment-related issues.

Funding and FTE

Our audit covered functions within the Workforce Planning and Development Unit, such as oversight of statewide human resource operations and training; the Colorado State Employee Assistance Program (CSEAP); and the State Personnel Board. Appropriations for the Workforce Planning and Development Unit are included as part of the “State Agency Services” line item appropriation, which also includes Total Compensation Unit operations (excluding the Employee Benefits Section) and the Division Director’s office. CSEAP, training, and the Board receive separate line item appropriations. The Workforce Planning and Development Unit, training, and CSEAP operations are primarily cash-funded from sources including indirect cost recoveries from state agencies and institutions of higher education and fees for training services. Board operations are primarily funded by the State’s General Fund. The following table shows appropriations for State Agency Services, training, CSEAP, and the Board over the past three fiscal years.

State Agency Services, CSEAP¹, Training and State Personnel Board Appropriations for Fiscal Years 2003-2005					
		2003	2004	2005	2003-2005 % Change
State Agency Services²	Amount	\$2.1M	\$2.0M	\$1.9M	-10%
	FTE ³	35.9	30.9	30.7	-14% ⁴
CSEAP	Amount	364,100	\$374,900	\$378,800	4%
	FTE ³	4.5	4.5	4.5	0%
Training	Amount	\$292,100	\$288,500	\$283,600	-3%
	FTE ³	3.0	3.0	3.0	0%
Board	Amount	\$402,700	\$429,600	\$416,900	4%
	FTE ³	4.8	4.8	4.8	0%
Total	Amount	\$3.2M	\$3.1M	\$3.0M	-6%
	FTE ³	48.2	43.2	43.0	-11%

Source: Department of Personnel & Administration’s supplemental appropriations for Fiscal Years 2003, 2004, and 2005; and House Bill 02-1226 for CSEAP’s appropriations for Fiscal Year 2003.

¹ Colorado State Employee Assistance Program.

² Includes the Workforce Planning and Development Unit, Total Compensation Unit operations (excluding the Employee Benefits Section) and the Division Director’s office.

³ Full-time equivalent.

⁴ According to the Department, the decrease in FTE from Fiscal Year 2003 to Fiscal Year 2004 for “State Agency Services” is primarily due to the Department’s own human resources functions being separated out of the line item and included in the Department’s Executive Office.

State Workforce Demographics

The State's workforce is divided into classified and nonclassified employees. Classified employees are subject to state personnel system laws. According to the Department's data, as of June 30, 2004, there were about 31,500 classified employees with a median age of about 47 years, an average length of service of 9.7 years, and an average salary of about \$45,400.

Nonclassified employees are subject to their individual agencies' or institutions' personnel rules. Examples of nonclassified employees include university and college professors, all Judicial Department employees, and most employees within the Legislative Branch. The Department does not collect data on the number of nonclassified employees. Payroll information is available for nonclassified employees but contains duplicate records and is affected by seasonal employment.

Audit Scope

The Office of the State Auditor is required by Section 24-50-103.5, C.R.S., to conduct a performance audit of the state personnel system and the Personnel Board every four years and consider:

- Whether the Department and the Board have operated in the public interest and economy and are perceived as effective by other departments and members of the General Assembly.
- Whether the Department and the Board have dealt with complaints effectively, filled job vacancies timely, and implemented incentives to reward employees.
- Whether the Department's staffing levels are effective and whether the Department and the Board are constrained from carrying out their duties.

Our audit did not evaluate business risk and loss control management, employee benefits, or employee compensation. We released audits of the Department's Employee Benefit Program in June 2003 and of Business Risk and Loss Control Management in August 2004. Additionally, an audit of the Department's Annual Total Compensation Survey Report was in progress at the time of this audit.

Hiring and Maintaining a Qualified Workforce

Chapter 1

Background

According to the State Personnel System Act (specifically, Section 24-50-101 (3) (a), C.R.S.), “the purpose of the state personnel system, as a merit system, is to assure that a qualified and competent work force is serving the residents of Colorado.” In fulfilling this leadership role, the Director is specifically required to establish procedures and directives for the acceptance of applications, establishment of job qualification standards, development of a list of eligible candidates for consideration, and development and administration of job-related examinations. These procedures and directives are to be used uniformly by all principal departments.

Our audit identified areas in which the Department should strengthen its policies, directives, and practices. Specifically, we reviewed the Department’s direction and oversight in ensuring that state positions are filled in a timely manner, that employees have the qualifications needed to perform their duties, and that the need for long-term planning for the succession of state employees is addressed. These areas are discussed throughout this chapter.

Hiring Practices

According to Section 24-50-101 (3)(c), C.R.S., it is the State Personnel Director’s responsibility to “provide leadership in the areas of policy and operation of the state personnel system as well as to provide consultant services to executive branch agencies and institutions of higher education to further their professional management of human resources in state government . . . [and] provide necessary directives and oversight.” We reviewed the Department’s role in providing leadership and oversight on hiring practices and found that the Department does not have all of the information necessary to evaluate the effectiveness of agencies and institutions in this area. Specifically, the Department lacks key information within the hiring process to measure the timeline for filling vacancies, including tools for identifying positions that are difficult to fill (hard-to-fill); data on agency incentives or practices used to recruit new employees, including for hard-to-fill positions; and

research on hiring standards for time to fill vacancies. Additionally, a majority of survey responses from personnel administrators indicate that the hiring process is too lengthy, restrictive, and cumbersome.

Time to Fill Vacancies

Filling vacancies timely is important because the State is at risk of losing qualified candidates if job offers are not made in a timely manner. According to 2002 survey data from a number of authoritative human resource management sources, including the Society for Human Resource Management and the Saratoga Institute (a unit of PricewaterhouseCoopers that has developed metrics for and conducts analyses of human resource management processes), public and private sector employers across the U.S. take an average of 44 days to fill a position once it becomes vacant.

We evaluated the data used by the Department to track the time required to fill vacancies. The Department maintains an Applicant Data System (ADS) that may be used for this purpose. ADS contains information on all candidates for classified state vacancies, such as registration dates (the date an agency records a vacancy in ADS), hiring exam dates, exam scores, and referral outcome dates (the date a decision to appoint a candidate to a job was made).

We found that ADS lacks some key information for tracking the hiring process. For example, ADS does not contain fields for agencies to record when they actively begin filling a vacancy (such as the job announcement date) or when a new hire starts in a position. We also found that agencies do not use ADS consistently. In particular, agency practices for registering vacancies in ADS vary widely; some register vacancies in ADS when they announce the job opening, and others register them when a job candidate is offered a position. We found that for about 7 percent of open competitive vacancies (i.e., openings for which any Colorado resident may apply) during Fiscal Years 2003 and 2004, less than one day elapsed between the registration date and the referral outcome date. If the vacancy was filled from an existing list of candidates referred from a previous announcement, the vacancy may have actually been filled within one day. However, the recorded "vacancy date" could also be the date the vacancy was entered into ADS after the position was filled. It is impossible to determine from ADS how many of the positions were in fact filled within one day and how many were not.

The Department conducts an annual survey of agencies' and institutions' human resource operations and asks them to report on the average number of days to fill vacancies. We reviewed the Department's survey data and found agencies and institutions reported taking an average of 43 days to fill vacancies during Fiscal Years 2003 and 2004. However, we question the accuracy of this figure because the average was not weighted according to the size of the agency reporting and up to

36 percent of agencies did not report at all. Additionally, the annual survey does not request detailed information on all vacancies filled (just an average for each agency), the information is entirely self-reported, and it is not verified by the Department.

Since Department data are not reliable (i.e., they do not capture the entire time frame for filling a vacancy), we reviewed documentation for a sample of 73 classified open competitive vacancies during Fiscal Years 2003 and 2004, including vacancies from 12 state agencies and higher education institutions. We measured the time to fill vacancies from the date each vacancy was announced to the date the newly hired employee began work. These dates do not consider the additional time spent by the agencies prior to announcing a vacancy and thus may understate the time to fill a vacancy on the front end. Similarly, these dates include additional time spent after an offer has been made and accepted, until the employee actually begins work and thus may overstate the time to fill a vacancy on the back end. However, we used these dates for our analysis because national data were available for comparison and the Department and agencies do not consistently track other dates that can be used to evaluate time to hire.

Our analysis found that the average time to fill the vacancies in our sample for these two years was about 80 days, or 36 days longer than the 44-day national average. Specifically, we found:

- 14 (19 percent) were filled within the national average time of 44 days.
- 37 (51 percent) were filled within 45 to 90 days.
- 22 (30 percent) took longer than three months to fill, including 2 that took longer than nine months.

Hard-to-Fill Positions

We also reviewed the Department's efforts to assist agencies with hiring for hard-to-fill positions and found the Department lacks information to define or track such positions. We asked the 12 agencies and institutions in our sample to identify their hard-to-fill positions; 9 identified such positions and provided us with information on the time it took to fill them during Fiscal Years 2003 and 2004. The hard-to-fill positions identified were heavily concentrated in the health care services and labor, trades, and crafts occupations. We reviewed vacancies in these occupational groups within our sample and found the average time to fill was 89 days, 9 days longer than our total sample and 45 days longer than the national average.

Metrics and Benchmarks

Finally, we reviewed the Department's practices for assessing the efficiency and effectiveness of the State's hiring processes. We found that the Department has not established metrics or benchmarks in this area, nor has it required agencies to develop their own metrics or benchmarks for assessing their hiring processes.

Professional human resource organizations indicate that measuring the adequacy of the hiring process is key to determining whether practices are efficient and effective, guiding workforce strategies, maximizing return on human resource investments, and encouraging organizations to assess their own processes. Common metrics used by professional human resource organizations include cost per hire, new hire time to start, time to fill, offer acceptance rate, employee replacement rate, and applicant processing response time.

Improvements

The Department needs to improve its oversight of hiring processes by improving the data available, monitoring key human resource metrics, and providing assistance where needed.

First, the Department should modify ADS or develop other systems to capture key dates (vacancy announcement date and employee start date) to monitor time to fill state vacancies. The Department also should ensure that agencies and institutions are consistent in entering key data into ADS or another system. In addition, there may be other dates in the hiring process that the Department could capture, such as the date an agency first receives approval to fill a vacancy, that could be used to more specifically identify where delays in the process occur.

Second, the Department should establish benchmarks for time to fill vacancies that would serve as both goals and standards against which to measure agency hiring practices. Once key data are collected through ADS or another system, the Department could then evaluate information on time to hire and other metrics against these benchmarks and use the results to provide technical assistance. This could include sharing best practices, such as restructuring exams to be more job relevant, finding new places to advertise, and using residency waivers. Additionally, the Department could use the data to identify issues within the hiring process and focus its audit efforts in these areas.

According to Department data, an estimated 30 percent of the State's classified workforce is eligible for retirement within the next five years and an additional 41 percent in the following five years. In a May 2002 white paper addressing hiring

issues in the federal government, PricewaterhouseCoopers reported that “government hiring managers have identified the lack of metrics as a key failing of the Federal recruitment effort.” It also states that “to develop recruitment metrics, an organization needs to identify the necessary data (or lack thereof) and begin to collect it.” In a “Report to Congressional Requesters,” released in May 2003, the Governmental Accountability Office (GAO) found that federal agencies were losing qualified candidates to the private sector because their hiring processes were too lengthy. These reports highlight the importance of evaluating key human resource metrics to assess statewide hiring practices to assist agencies and institutions in managing the expected turnover within the State’s workforce in the next decade.

Recommendation No. 1:

The Department of Personnel & Administration should improve its oversight and monitoring of the State’s hiring practices by:

- a. Modifying ADS or developing another system to capture the date each vacancy is announced and filled, and establishing requirements and guidelines for agencies and institutions to follow when entering job vacancy and selection data into ADS or another system that has such capabilities.
- b. Developing benchmarks to evaluate the State’s effectiveness in filling job vacancies and/or helping agencies develop their own metrics or benchmarks for assessing their hiring practices.
- c. Using the information from ADS or another system in place of a survey to monitor hiring time frames, identify problem areas, help agencies identify hard-to-fill positions, and provide assistance and training as needed.

Department of Personnel & Administration Response:

Agree. Implementation Date: July 1, 2006. The Department will explore the feasibility of modifying ADS to accommodate new data needs or an alternate system for tracking these data. The Department is in the process of replacing its employee database system (EMPL) and will be looking at the applicant tracking module of the new system as a possible solution to this issue. Regardless of the system used to collect the data, the Department will establish a more reliable method for monitoring hiring timeframes. The Department will also establish general guidelines for key steps in the hiring process that reflect the state’s constitutional and statutory hiring requirements and restrictions. These guidelines will recognize that different programmatic

requirements and different job classifications will drive differences in appropriate hiring timelines for individual positions. The Department will assist agencies and institutions with assessing their hiring practices in comparison to the general guidelines and their individual business requirements.

Employee Qualifications

Before an applicant is hired as a state employee, he or she must meet specified employment qualifications. Each classified state position has minimum qualification requirements. These requirements may include having a high school diploma, an advanced medical degree, a commercial driver's license, or a specific number of years of experience in the industry. Some jobs also have restrictions that bar individuals with certain criminal histories from specific duties, such as working with vulnerable populations or providing law enforcement services.

We reviewed the State's practices for verifying credentials and conducting criminal history checks. We found controls need to be improved in both areas, as discussed below.

Credential Checks

We reviewed the policies and practices for conducting and documenting credential checks for a sample of 100 employees at 10 agencies and institutions. We found that 36 of the 100 files we reviewed did not have documentation verifying the licenses and certifications required for the job or the degrees listed on applications or resumes. We found variations in whether agencies check all credentials, how they verify credentials, and whether they conduct post-employment checks to ensure that employee licenses and certifications remain current, as discussed below.

Checking credentials for all positions. We identified five agencies and institutions that check credentials for all positions. However, we found 15 files at these agencies and institutions that lacked documentation verifying employees' credentials. We were able to independently verify that all of these 15 employees had the credentials claimed.

Checking only the credentials required for the job. We identified five agencies and institutions that do not check all credentials for all positions. At these agencies and institutions, we found that 7 files were missing documentation for the required licenses and certifications and that an additional 14 files were missing verification of degrees. We were able to verify the 7 required licenses and certifications but were

unable to verify 5 of the 14 degrees. Although these 5 degrees were not required for the job, the lack of verification is a concern because there is a risk that employees may have falsified information submitted for employment that the hiring agencies did not detect. The State's standard application for employment requires applicants to certify that they possess the experience, education, and/or licenses required for the job and that all statements and information provided are true. In addition, the application states that any omissions or misleading or false information may constitute grounds for discipline, termination, and further actions pursuant to law. Finally, applicants certify that they will supply documentation to confirm that the information in the application is true. For the five employees whose degrees we were unable to verify, two have since left state employment, and three have been asked by their agencies to provide evidence of their degrees. One agency has also attempted to verify the degree claimed with the institution. At the end of the audit, no agency had resolved these issues.

We also reviewed agency practices for ensuring that employees' licenses and certifications are verified throughout their employment with the State. We found that four agencies were missing documentation indicating that required licenses and certifications were current. The Department has not developed guidelines for agencies and institutions that address whether all credentials claimed by an applicant should be verified, how the verification should be conducted and documented, and whether post-employment checks should be done to ensure that licenses and certifications remain current.

Criminal History Checks

Colorado statutes require criminal history checks for certain state positions, including law enforcement officers, lottery personnel, pharmacists, those working with vulnerable populations, and child care workers. For other positions, state agencies and institutions have discretion as to when and how criminal history investigations are conducted and documented.

Screening for criminal histories is important to limit the risk that potential employees will pose a threat to the public, other state workers, and state property. A lack of due diligence by an employer in reviewing backgrounds of job applicants can lead to costly legal fees if an employer should have known about an employee's potential threat to people or property through a background check. In fact, Colorado courts ruled in 1992 that employers may have a duty to conduct criminal background checks prior to employment for those positions that will have close contact with the public (Connes v. Molalla Transport System, Inc.). In addition, negligent hiring practices are costly. According to information from the Northeast Human Resource Association, U.S. employers lose about 72 percent of all negligent hiring cases.

We reviewed policies and procedures for conducting and documenting criminal history checks at each of the 10 agencies and institutions in our sample and found inconsistencies, as follows:

- **Some agencies have not determined which positions should undergo criminal history checks.** Positions that are subject to criminal history checks are generally referred to as security-sensitive positions (e.g., positions that pose a potential risk to people or property because the employees have access to vulnerable populations, state assets, or confidential financial, legal, and medical records). Of the agencies we reviewed, one had not identified security-sensitive positions that should be subject to criminal history checks. As a result, this agency does not conduct routine criminal checks for any positions. Five agencies have identified some positions that are security-sensitive, such as nurses and law enforcement officers, that are required to have criminal history checks, but three of these agencies have not thoroughly evaluated all positions to determine the need for checks. The remaining four agencies conduct checks on all positions.

We checked criminal histories for a sample of 100 employees and found that, excluding traffic offenses and minor infractions, most (97 employees) had no criminal convictions. One employee had a conviction that the employing agency was aware of and had determined was not significant due to the time that had elapsed since the conviction. Two employees had criminal convictions that the employing agencies were unaware of because they had not identified which specific positions should be checked. One of these employees works for the agency that had not identified any positions for criminal history checks. This agency reports that it will not take any action based on the conviction record but indicated that, had it known about the conviction at the time of hire, a different hiring decision might have been made. The other employee works for an agency that recently changed its policy to conduct criminal history checks for security-sensitive positions. Under the new policy, this employee's position would require a criminal history check prior to employment. Based on the nature of the employee's job duties and the offense, the agency plans to conduct more research on the offense and work with its attorney prior to taking further action.

- **Most agencies have not established criteria for the use of criminal history checks in hiring.** One agency we reviewed has defined what criminal history results would disqualify an applicant from employment, but others reported that they prefer to evaluate each applicant on a case-by-case basis. Written guidelines can help an employer ensure that all job applicants are treated equitably with respect to how their criminal history records are considered in the hiring process.

- **Agencies use various methods to obtain and document criminal history checks.** Of the nine agencies we reviewed that conduct criminal history checks on some or all positions, we found that four use fingerprint-based checks conducted at the state or federal level or both and five use a name-based check, such as through CoCourts.com (a publicly available database of Colorado Court records) or contacts with local law enforcement departments. In addition, eight agencies maintain all results of criminal history checks, while one only obtains verbal confirmation on criminal history records from the Department of Public Safety. Some methods of checking criminal histories provide more complete and accurate results than others. For example, conducting a check based solely on the name and/or birth date of an individual (such as through CoCourts.com or the Colorado Bureau of Investigation’s public online system) may return results for many different people with the same name, but it is relatively inexpensive, costing between \$6 and \$7 per check. Checks that use fingerprints are generally considered to be the most accurate, and cost about \$17 each for an in-state check. Some private online companies charge between \$20 and \$30 for a criminal history record.
- **Many agencies do not periodically recheck the criminal records of employees.** Three of the agencies and institutions we reviewed conduct periodic checks on existing employees to ensure employees have not committed crimes since the original check was done. The remaining seven agencies do not conduct post-employment checks. As a result, there is a risk that current employees could be convicted of crimes that would compromise their job duties without the employing agency being aware of the conviction.

The Department provides some basic guidance to assist agencies and institutions with recruitment, selection, and interview techniques, which is published in the “Hiring Guide for Managers.” However, the Department offers no guidance for identifying security-sensitive positions that should be subject to criminal history checks, how results should be used in the hiring process, what system to use for the checks, or when to conduct post-employment checks. Guidelines on how to use criminal history check results would need to take into account Section 24-5-101, C.R.S., which states, in part: “. . . the fact that a person has been convicted of a felony or other offense involving moral turpitude shall not, in and of itself, prevent the person from . . . obtaining public employment . . .” The guidelines would also need to consider whether applicants should provide information related to criminal convictions as part of the hiring process. Once guidelines are established, the Department should consider reviewing compliance with the guidelines as part of its audit process, as discussed in Chapter 2.

Recommendation No. 2:

The Department of Personnel & Administration should develop guidelines for conducting credential and criminal history checks to help state agencies and higher education institutions establish policies and practices in these areas. The guidelines should include:

- a. Whether and how all credentials should be verified, how the verification should be documented, and whether periodic post-employment verification should be done to ensure employee licenses and credentials remain current.
- b. How to identify positions that could pose threats to people or property and therefore should be subject to criminal history checks; criteria for using criminal history check results in the hiring process; the best method of conducting checks; when to request criminal history from applicants; and when to conduct post-employment checks.

The Department should also incorporate a process to verify compliance with such guidelines in its audit process.

Department of Personnel & Administration Response:

Agree. Implementation Date: July 1, 2006. The Department will develop and publish general guidelines for checking education and experience credentials as part of the hiring process by January 2006. The Director of the Division of Human Resources is a member of a national taskforce charged with identifying issues and developing policies on criminal history and background check standards in state government. The Department will use the national taskforce's findings to establish general guidelines to assist agencies with developing and applying effective policies on criminal history checks. Division staff from the workforce planning and risk programs will collaborate to develop tools and training on identifying critical positions for pre- and post-employment criminal background checks and assist agencies with identifying positions that pose a threat to people or property. However, as individual departments are better able to determine the risks that are present in their environment, the responsibility for establishing specific credential and criminal history check policies should reside with the individual agencies. Audit criteria will be developed and incorporated to confirm application of the individual agencies' policies.

Succession Planning

Throughout the U.S. and in Colorado, the workforce is aging and the number of workers eligible to retire is growing. According to the U.S. Department of Labor, Bureau of Labor Statistics, baby boomers (born between 1946 and 1964) represented about 42 percent of the workforce in 2004 and, by 2012, the median age of the labor force is projected to be 41.4 years, the oldest level ever recorded by the Bureau.

According to the Department of Personnel & Administration, as of June 30, 2004, the median age of Colorado state classified employees was about 47 years and the average retirement age was about 63 years. Department data also indicate that almost 30 percent of the State’s classified workforce (9,270 classified state employees) are eligible for retirement within the next five years and an additional 41 percent (12,980 employees) in the following five years. The following table shows the occupational groups that will be most affected by these retirements.

Classified State Employees Eligible to Retire in 10 Years or Less¹ by Occupational Group as of June 30, 2004			
Occupational Group² (Examples of Positions in the Occupational Groups)	Number of Employees Currently in Group	Employees Eligible to Retire in 10 Years or Less	
		Number	Percent of Group
Labor, Trades, and Craft Services (Transportation Maintenance Technicians, Carpenters, Custodians)	5,400	4,100	76%
Professional & Administrative Services (Accountants, IT Professionals, Administrative Assistants, Office Managers, Engineers)	16,900	12,700	75%
Health Care Services (Physicians, Health Care Technicians)	3,400	2,400	71%
Enforcement and Protective Services (Correctional Security Officers, State Troopers)	5,800	3,100	53%
Total	31,500	22,300	71%

Source: Office of the State Auditor analysis of data provided by the Department of Personnel & Administration.
¹ According to the Department, this represents employees who will be at least age 50 and are eligible for either full or reduced retirement.
² For reporting purposes, some occupational groups have been combined.

In fact, according to Department data, in 10 years or less, 14 departments and 23 institutions of higher education (including both two-year and four-year institutions) could lose up to 70 percent of their workforce as employees become eligible for full or reduced retirement.

To address the loss of experienced employees that will occur over the next 5 to 10 years, it is important for the State to analyze workforce trends and projections, determine skill gaps and needs, and devise succession planning strategies to manage change. Succession planning provides a tool to replace highly qualified people in key positions now and in the future. Adequate succession planning allows development of a current employee or recruitment of an individual outside the organization with the skills necessary to step in when someone leaves a key state position.

We surveyed five state agencies and seven higher education institutions to determine whether they have conducted any type of succession planning, such as identifying specific positions that are expected to turn over in the next 5 to 10 years, determining the skills and knowledge base associated with these positions, and developing a plan for replacement. Nine of the agencies and institutions surveyed (75 percent) had not conducted any planning for the succession of their employees. Three agencies and institutions had begun some efforts in succession planning including projecting retirements and developing some broad frameworks for planning, but two of the three had not actually identified specific positions and critical job competencies for targeting their succession planning. The other agency had only recently identified two positions that will experience significant turnover and has developed training for current employees to obtain the skills necessary to advance to these positions.

The Department has only recently begun offering training to state agencies and institutions on planning for the succession of state employees as they near retirement and leave state employment. One training class has been scheduled for August 2005. The Department should ensure that this class and successive training classes include helping state managers in areas such as reviewing retirement data for their agencies and institutions to determine trends and projections for the next five years, identifying where their agencies or institutions are vulnerable to turnover and at risk of losing valuable knowledge and experience, identifying resources for filling vacancies when turnover occurs, and training or recruiting succeeding employees. Succession planning is also a key tool to retain existing employees by providing them with opportunities to advance in their careers. For example, the Hay Group, an internationally recognized organization that provides resources to human resource professionals to improve workplace effectiveness, surveyed one million employees at 300 companies between 1997 and 2000 and found that the lack of opportunity for advancement and skills growth were significant factors in why employees contemplated leaving their jobs.

Without adequate succession plans in place, the State is at risk of losing valuable knowledge and productivity, which could create operational problems and inefficiencies.

The Department needs to take a more proactive approach in providing agencies and institutions with adequate guidance and training on succession planning. Personnel departments in several other states, such as New York, Delaware, and Georgia, have developed guidance on workforce and succession planning for their state agencies. Typically, these states recommend steps agencies can take as part of the planning process, such as assessing critical work needs, determining the staffing levels and skill sets needed to perform the work, and identifying sources for future job candidates (e.g., schools, private industry, etc.). Additionally, they recommend determining which positions require special attention to ensure a qualified replacement as well as the specific actions to fill such positions.

Recommendation No. 3:

The Department of Personnel & Administration should develop succession planning tools for state agencies and institutions. This should include continuing to provide training to state agencies and institutions of higher education on planning for the succession of state employees, particularly in terms of identifying turnover rates for key positions, defining the core skills and competencies needed for replacement, and establishing methods to train existing employees or recruit new employees to fill vacancies.

Department of Personnel & Administration Response:

Agree. Implementation Date: July 1, 2006. The Department has already begun work in this area. The Department publishes an annual workforce report that contains key statistics on both statewide and department populations, such as gender, ethnicity, age, turnover, retirement eligibility, and occupational groups. These data enable state departments and institutions to begin to identify and plan for the succession of key positions. The Department has also invited agency and institution participation on a taskforce to assess needs, prioritize, and develop succession planning tools. The Department will provide training for the human resource community and hiring authorities as tools are developed.

Managing and Developing the State's Workforce

Chapter 2

Introduction

One of the Department's statutory responsibilities is "to provide consultant services to . . . agencies and institutions . . . to further their professional management of human resources in state government." Human resource development and management involves training employees, planning and evaluating their performance, and managing conflicts and disputes. The Department plays a role in these functions by:

- Providing training on human resource management skills, such as conflict resolution, supervision, contract management, and leadership.
- Providing guidance to agencies and institutions regarding their performance planning and evaluation programs.
- Resolving employee disputes through investigations, mediation, and formal hearings.
- Evaluating agencies' and institutions' management of the state personnel system to ensure compliance with applicable laws, rules, and procedures.

We identified areas for improvement of these functions, as discussed in this chapter.

Training

Under current statute, the Department has specific responsibilities for training state employees. According to Section 24-50-122, C.R.S., the state personnel director is responsible for:

- Establishing and maintaining training programs for employees in the state personnel system.

- Regularly assessing the effectiveness of such training as may be conducted.
- Approving the expenditure of state funds for training of state employees.
- Identifying training needs for current and anticipated classes of positions within the classified system.
- Identifying and recommending to the Governor and the General Assembly the most economical and effective means of meeting the State's training needs.

We evaluated Department practices for meeting these statutory responsibilities and found that the Department is not fully accomplishing any of them. First, we found that the Department does not establish and maintain all training programs for employees in the state personnel system. The Department does offer training in some areas, such as applying state personnel rules, improving supervisory skills, and developing performance plans. However, most agencies and higher education institutions are decentralized and, according to the Department, provide both discipline-specific and general human resource management training to their own staff. The Department does not have complete data on the amount or types of training provided by state agencies and institutions. The Department also does not have complete data on the extent to which agencies rely on the Department to provide general human resources management training rather than providing this training themselves.

Second, the Department does not have a mechanism for consistently evaluating the effectiveness of training provided to state employees. For training provided by other agencies and institutions, the Department does not require them to evaluate or report on the training; for training offered by the Department, attendees complete course evaluations for some, but not all, classes.

Third, the Department does not approve the majority of training expenditures made by state agencies and institutions. During Fiscal Year 2004 the Department approved training expenditures totaling about \$78,000. Although we were unable to determine a total cost for all training provided to state employees (these costs are not tracked consistently by state agencies), according to the State's financial system (COFRS), agencies spent a total of about \$3.9 million in Fiscal Year 2004 to register their employees for training with outside vendors. Expenditures for internal training provided by state agencies and institutions may not be recorded in COFRS as a training expense.

Fourth, the Department does not consistently identify training needs for current and anticipated classes of positions within the personnel system. The Department did

survey state agencies about training in 2003; however, it does not routinely collect and analyze this information. The Department also uses course attendance and evaluation data for classes it provides to determine whether to continue or modify them. However, the Department does not use other sources of information, such as data on state disciplinary actions and disputes, to identify and address training needs.

Finally, the Department does not evaluate the costs of training provided to state employees so that it can make recommendations for improvements. The Department tracks training costs, such as course materials, space rental, or staff time, for the training classes it provides but does not break down these costs on a per class basis. As a result, the Department cannot assess the cost-effectiveness of its training, nor does it have a basis for setting training fees. The Department charges attendees for certain classes, with fees generally ranging between \$150 for a one-day course to \$725 for a five-day course per person. According to some agencies and institutions we surveyed, the Department's training fees are too high, causing agencies to seek other sources for needed training.

We contacted the personnel departments in 16 states to determine their roles in managing and overseeing training for state employees. We found that none of the personnel departments in these states was responsible for overseeing the training programs of all state agencies and institutions. Instead, similar to Colorado, these states' personnel departments generally offer some human resource types of training (e.g., supervisory and leadership training) while individual agencies provide other job-specific types of training.

Considering the size of Colorado state government, the number of employees, and the wide variety of training needs among state agencies, it may not be effective or efficient for the Department to manage and oversee all training provided to all state employees as required by statutes. The Department should reevaluate its training role and clarify the specific training functions that it should perform to support agencies and institutions and to "further their professional management of human resources in state government," as set forth in statutes. Options include ensuring employees receive cost-effective, quality human resources management training to address high-risk areas and coordinating training through a brokering mechanism. We describe each of these options below.

Targeting High-Risk Areas

As the agency charged with overseeing the State's personnel system, the Department has access to data on human resource management issues that pose significant risks to the State. By collecting and analyzing these data, the Department can identify training needs to address these risk areas. For example:

- **Recruitment, hiring, and turnover data.** As discussed in Chapter 1, the Department's Applicant Data System (ADS) does not have data to evaluate the timeliness of hiring by state agencies or a mechanism to identify hard-to-fill positions. However, if the Department makes improvements to its systems to measure actual time to fill vacancies and establishes requirements for when agencies and institutions should enter data, the Department could use these data to provide focused training and assistance to agencies that are not able to fill positions quickly.
- **Audit findings.** As discussed later in this chapter, the Department does not use the results of its audits of agencies and institutions to develop and provide specific training to agencies that have difficulties in complying with personnel laws and rules.
- **Disputes.** While the Department is generally aware of matters brought to the State Personnel Board, it does not formally analyze information on disputes filed with the Board. Employees who have concerns with issues such as layoffs, demotions, and other disciplinary actions may file a dispute with the Board. We reviewed dispute data for the period of July 2002 through October 2004 and found that three agencies represented about 60 percent of all disputes filed but employed only about 30 percent of the State's workforce. For these agencies, about one dispute was filed for every 30 employees; for all other agencies, the ratio of disputes to employees was about 1 to 100. According to the State Personnel Board, many of the disputes filed could be avoided through employee training in areas such as supervisory, leadership, and conflict management skills. Providing focused training to reduce the number of disputes could lead to cost savings. We estimate the average cost for the Board to handle a dispute is about \$750 (not including costs such as Attorney General time and agency staff time). In addition, agencies incur indirect costs, such as lowered productivity, higher stress levels, and poor employee morale, when disputes occur.

The Department should identify mandatory training in high-risk areas and require that agencies and institutions demonstrate that they obtained such training either from the Department or an external source.

Identifying Other Training Needs

The Department has historically offered some training to develop or improve skills that many or all state employees need, such as conflict resolution, workplace safety, communication skills, and developing core job competencies. However, the Department does not have a process to routinely ask agencies and higher education institutions to identify the types of training they typically provide or that is needed

by most or all of their staff. Although each agency requires its employees to have some unique skill sets, there are also areas where many or all state employees need similar skills, such as in communication, information technology, and team building. The Department could regularly compile information about training being provided by agencies and cross-agency training needs, such as through a periodic survey, and use the information to pursue options for making such training available. Once the Department identifies training needs, it should research options for addressing these needs at the best price. This could include determining the types of training the Department should provide itself and the types that could be obtained more cost-effectively from outside vendors at volume discounts.

The Department has already established price agreements with six vendors for providing computer software training to state agencies and institutions but does not have price agreements for other common training needs. In addition, the Department has begun researching potential vendors to provide training that may be of value to a wide spectrum of state agencies. In March 2005 the Department obtained information from 20 vendors on the types of classes they could offer and their methods of delivering training (i.e., online or classroom). The Department is considering options for contracting with one or more vendors to provide training in a variety of areas.

Recommendation No. 4:

The Department of Personnel & Administration should reevaluate its training role by:

- a. Collecting and analyzing data to identify the training needs of state employees and offer targeted training to agencies and institutions. This should include evaluating the usefulness of classes the Department provides, periodically obtaining information from state agencies and institutions on the training that they provide and their training needs, analyzing employee disputes filed with the Board, determining the type of training that should be mandatory, and requiring agencies and institutions to provide evidence that they have obtained such training.
- b. Pursuing options for filling state employee training needs by brokering training services for reduced costs.
- c. Working with the General Assembly to propose statutory changes consistent with its redefined role.

Department of Personnel & Administration Response:

Agree. Implementation Date: January 1, 2006. The Department will expand its current practice of formally evaluating training courses to include all courses taught rather than only certificate courses. A survey of all state employees is currently being conducted to identify training needs for state employees in every state agency. The department will also establish a schedule to regularly update training needs information to assure that training offerings are aligned with agency needs for the coming fiscal year and beyond. A Training Advisory Council has been established to assure ongoing communication with departments and institutions on training issues. The Department will use this forum to obtain additional information on training provided at the agency level.

The Department is already in the process of reevaluating its role in providing training for state employees. The Department plans to enter into an interagency agreement with Colorado State University that will provide a wide variety of training for state employees at reasonable cost and at locations around the State. On-line training programs and customized organizational development initiatives will also be offered to every state agency through this agreement.

If the Department determines statutory changes are necessary, we will work with the General Assembly to pursue such changes.

Performance Management

Section 24-50-104, et seq., C.R.S., requires the Department to develop guidelines and coordinate a performance system that emphasizes planning, management, and evaluation of employee performance and provides for each employee to be evaluated at least once a year. Under statutes, agencies and higher education institutions establish individual time frames and deadlines for completing employee evaluations. According to statute, supervisors who do not complete performance evaluations by July 1 annually are subject to demotion and will be mandatorily demoted to nonsupervisory positions if they fail to complete performance evaluations on time for two consecutive years. Department rules require corrective actions, denial of performance salary adjustments, and suspensions if supervisors do not complete employee performance plans and evaluations within the deadlines established by their agencies.

Currently the Department does not have reliable information on whether agencies and institutions are completing employee performance plans and evaluations on time. It is important for employees to be informed of job expectations and receive timely feedback on their performance to carry out their work in a productive manner. In addition, agencies need to document employee performance issues for a number of reasons. First, pay increases are based on performance evaluations. Although performance pay has been fully funded only once between Fiscal Years 2003 and 2005 due to shortfalls in the State's budget, if it becomes fully funded in the future, late performance plans or evaluations could delay employee performance pay increases and lead to disputes. Second, documentation is critical for disciplinary actions and dismissals. It is important for the Department to have an effective process in place to monitor agencies' and institutions' compliance with performance planning and evaluation requirements.

The Department collects information on the number of performance evaluations completed by each agency through a combination of reports from the State's employee tracking database (EMPL), which contains each employee's annual performance rating and the date the evaluation was completed, and email correspondence with the agencies. Additionally, the Department collects information on the timeliness of performance evaluations from each agency through an annual survey. We reviewed data from these sources for Fiscal Years 2002 through 2004 and found several problems.

First, the Department does not get complete information from the State's employee database (EMPL) or the surveys. The survey asks agencies and institutions to report "the number of employee performance plans and evaluations that were completed timely, the number that were not completed timely, and the number that were never completed." However, for Fiscal Years 2002 through 2004, an average of 18 percent (9 agencies) did not respond to the survey; 12 percent (6 agencies) did not provide information on the number of plans completed on time; 4 percent (2 agencies) did not provide information on the number of evaluations completed on time. According to the Department, staff followed up with the agencies that did not respond to the survey and requested that they complete the survey; however, the Department reports that the agencies did not respond. In addition, EMPL did not capture evaluation dates or ratings for some higher education institutions during Fiscal Years 2002, 2003, and 2004.

Second, the information in the surveys and EMPL is self-reported. The Department has no mechanism to verify data from either source. We reviewed a sample of performance evaluations for 20 employees in 7 agencies and institutions for Fiscal Years 2002, 2003, and 2004. We found, according to the dates on the evaluations, all 20 employees received an evaluation by July 1 for each fiscal year. However, dates for only 4 of the 20 hard copy performance evaluations matched the

information in EMPL. In addition, because EMPL is antiquated, it cannot be easily queried to summarize, by agency, the number of evaluations that were completed on time and the number that were late. The Department is currently working on replacing EMPL with a new employee database.

To improve its oversight of the State's performance management processes, the Department should ensure that the new employee database will allow queries to easily summarize whether each agency had all performance evaluations completed on time. Rather than collecting information on performance evaluations as part of its annual survey, the Department should review information from the new employee database to assess compliance with agency-specific and statutory deadlines and to provide technical assistance and training as needed. The Department could review a sample of actual plans and evaluations to verify what is reported in the new employee database. In addition, the Department could use information from the new system as part of a risk-based approach to auditing human resource practices in state agencies and institutions. The Department has not yet audited in this area but plans to do so in the future.

Recommendation No. 5:

The Department of Personnel & Administration should strengthen oversight of employee performance planning and evaluation programs by:

- a. Ensuring the new employee database will allow queries to easily compile information on whether each agency completed performance evaluations on time.
- b. Reviewing a sample of actual plans and evaluations to verify what is reported in the new employee database.
- c. Using data from the new database, rather than from an annual survey, to assess compliance with performance planning and evaluation requirements; identify agencies and institutions that are consistently late in completing employee performance plans and evaluations; and offer training and technical assistance to help improve timeliness.
- d. Using information from the new employee database as part of a risk-based audit program if the Department chooses that approach in accordance with Recommendation No. 7.

Department of Personnel & Administration Response:

Agree. Implementation Date: August 1, 2006. The Department is in the process of converting the employee information database (EMPL) to the human resource module in the Colorado Personnel and Payroll System (CPPS). CPPS is designed to track information on the final performance evaluations and this information will be more easily accessible through the human resource data warehouse reporting feature. Training will be provided to agencies and institutions as part of the system conversion to assure accurate data entry of performance information. The full capabilities of CPPS in tracking performance plan information is still being analyzed.

As part of the Department's ongoing oversight of the performance pay system, a representative sample of performance plans and final performance evaluations for the 51 departments and institutions of higher education will be reviewed to assure the accuracy of the self-reported data. Based on the findings, the Department will determine where timelines are not being met and provide training or technical assistance to improve timeliness.

Resolving Workplace Disputes

Workplace disputes involving state employees can be resolved at the employing agency or institution, or by the Department or the Board, depending upon the nature of the dispute. When a state employee has a complaint about working conditions or agency policies, he or she may file a grievance with the employing agency for resolution of the issue. If the employee disagrees with the decision of the employing agency, he or she may formally request the Board to conduct a hearing to review the decision. All other workplace disputes (such as terminations, demotions, or performance pay disputes) are resolved as described below.

Disputes Managed by the Department. The Department primarily addresses disputes related to position reallocations (i.e., when an employee's position is transferred into a lower pay grade); exams (i.e., when a job applicant challenges the content or conduct of a selection exam); and performance planning or evaluation (i.e., when employees challenge whether their individual performance plans or evaluations were completed according to their agency's policies). When a dispute is filed, the Department conducts a review of the employee's complaint and issues a decision on the dispute. The decision is binding and may overturn an agency- or institution-level decision. The Department handles about 80 disputes annually.

Disputes Decided by the State Personnel Board. The Board primarily addresses two types of disputes: (1) appeals of actions affecting a classified employee's pay, status, or tenure, which are constitutionally guaranteed a hearing before the Board, and (2) petitions for review of final grievance decisions issued at the agency level (i.e., an employee disagrees with the outcome of a written grievance he or she filed at the agency level related to working conditions or to agency policies and procedures, and petitions the Board for a hearing to resolve the issue). Probationary employees do not have a guaranteed right to a hearing, but they can petition the Board for a hearing if their dispute relates to a termination that they allege is based on discrimination. Between July 2003 and October 2004, more than 300 appeals and petitions for review were filed and dealt with by the Board. Of these, about half were dismissed prior to any formal review due to a variety of reasons (e.g., the Board lacked jurisdiction or the complainant did not file his or her appeal timely). The remaining half were resolved by the Board through case review, settlement conference, or formal hearing.

We reviewed how effectively the Board and the Department resolve employee disputes and found that cases are not always resolved in the most cost-efficient and timely manner. Specifically, we reviewed the Department's mediation services and the process to resolve whistle-blower allegations and identified areas for improvement, as described below.

Mediation Services

According to Board and Department rules and procedures, "Disputes should be resolved at the lowest level and as informally as possible. Fair and unbiased resolutions should be reached as quickly as possible. Parties are encouraged to use alternative dispute resolution methods in an attempt to reach early solutions." One of the alternatives to formal dispute resolution is mediation. Mediation is optional by either party in a dispute except that if a dispute is filed with the Board and one party requests mediation, the other party is required to participate. The Department has two mediation programs:

- **Colorado State Mediation Program (CSMP).** In this program, state employees volunteer to serve as neutral third-party mediators. The Department provides these volunteers with specific training in conflict resolution. Currently 48 state employees are trained as volunteer mediators.
- **Colorado State Employee Assistance Program (CSEAP).** In this program, CSEAP counselors employed by the Department help employees to mediate workplace conflicts.

We reviewed the extent to which employees use mediation to resolve disputes. We found that between July 2003 and October 2004, about 150 disputes were addressed through Board action, and about 70 disputes were addressed through mediation. Of the 70 disputes that were mediated, about 55 were handled through CSMP and about 15 through CSEAP.

We also reviewed the success rate of disputes handled through mediation. The Department reported that of the 55 cases handled through CSMP between July 2003 and October 2004, almost half were successfully resolved (meaning a written agreement between the parties was reached). In the remaining cases, the Department lacks information on the final outcome of the mediation. However, we interviewed three CSMP mediators who indicated that even when a written agreement is not reached, many employees do not pursue their disputes with the Board, because they have been able to discuss their grievances with their employers. Data on the success rates of the CSEAP mediation program were not available, since the Department does not track whether agreement is reached between these parties.

Resolving disputes through mediation is generally less costly than resolving disputes through Board action. When cases are assigned for Board action, costs are incurred from the point the review process begins, whether the dispute is resolved through file review, settlement conference, or formal hearing. According to Board documentation, it costs an average of about \$750 to resolve each dispute. This does not include costs such as Attorney General time, agency staff time, and other unidentifiable costs such as lowered productivity and poor employee morale. In contrast, we estimate that it costs an average of about \$300 to mediate a case through CSMP and less than \$100 to mediate a case through CSEAP.

Board data indicate that more than half of the cases currently resolved by the Board (about 85 out of 150) are settled prior to hearing through the Board's settlement program. These figures indicate that many cases can be resolved without a formal Board hearing, through informal and less costly processes such as mediation.

To ensure that the maximum number of disputes are handled at the lowest and least costly level, as required by Board and Department rules and policy, the Department needs to make sure agency personnel administrators and employees are aware of the mediation programs available. We surveyed 26 personnel administrators; 12 reported they had never recommended CSMP and 11 reported they had never recommended CSEAP to employees to resolve workplace disputes. One administrator stated that although he has found mediation to be highly effective, he finds it difficult to recommend CSMP due to the lack of available materials, such as a brochure, describing the program. Another administrator was under the impression that CSMP had been discontinued and four more were not aware of either one or both of the mediation programs.

Although CSMP is advertised on the Department's Web site, we found that information on the program is difficult to locate. The only place we found a description of CSMP was on the Board's Web site under the section *Board Processes and Programs*, which provides contact information for the program. In addition, the Program is mentioned in the Employee Handbook and the Grievance Form, both available on the Web site. By highlighting available mediation programs on the Department's and Board's Web sites, preparing informational materials and pamphlets, and training and informing all human resource administrators and directors about these programs, the Department can increase the likelihood that employees will use mediation to resolve their disputes.

Whistle-Blower Investigations

When a state employee files a complaint alleging retaliation, (known as a whistle-blower complaint), statutes require both the Department and the Board to conduct an investigation. First, statutes require the Department to conduct an initial investigation, which is reported to the Board before any Board action begins [Section 24-50.5-104, C.R.S.]. Second, according to case law related to Section 24-50-125, C.R.S., the Board must conduct its own "de novo" review, meaning the Board must make its own "new" factual determination on whistle-blower allegations and cannot consider the Department's report. In other words, while the Board ALJs may consider the facts underlying the Department's report, they may not consider the results of the Department's investigation when conducting their own review.

Conducting two fact-finding determinations – one by the Department and one by the Board – is a duplication of effort and adds to the time and cost of resolution without any real benefit. During Fiscal Years 2002, 2003, and 2004, employees filed about 70 whistle-blower complaints. For example, one complainant alleged receiving an unsatisfactory performance evaluation in retaliation for disclosing information; another alleged receiving a corrective action in retaliation for disclosing information. During this period the Department dedicated about one-quarter of an FTE at an average annual cost of about \$20,000 to conduct the initial whistle-blower investigations. These investigations delayed the Board's pre-hearing or review process by an average of about four months per case and cost an estimated \$60,000 for the three years.

The Department should propose legislation to eliminate its investigations of whistle-blower complaints. In addition, the Department and the Board should ensure state agencies and institutions are informed and aware of alternatives to Board action, such as the CSMP and CSEAP mediation programs. These steps should expedite and reduce the costs of the hearing process.

Recommendation No. 6:

The State Personnel Board and the Department of Personnel & Administration should:

- a. Improve state employees' awareness of the State's mediation programs by expanding information on the Department's Web site, developing brochures and written materials for the programs, and informing human resource administrators at state agencies and institutions on the benefits of mediation programs.
- b. Work with the General Assembly to eliminate the requirement for a pre-hearing whistle-blower investigation by the Department.

Department of Personnel & Administration Response:

Agree. Implementation Date: December 1, 2005. The Department will coordinate marketing and publication of information about the state mediation program and inform the human resource community about the available programs and the benefits of using these programs. In addition, the Department will make this information more easily accessible on its Web site.

The Department will work with the State Personnel Board and the General Assembly to identify and articulate appropriate statutory changes to eliminate the pre-hearing whistle-blower investigation requirement as our investigation is unnecessary in that there is a full de novo hearing in front of the State Personnel Board Administrative Law Judges.

State Personnel Board Response:

- a. Agree. Implementation: July 1, 2006. The Board believes mediation is a vital component in the process for resolution of disputes that arise in the state personnel system, and particularly in the context of the resolution of grievances initiated by state employees under the Board's rules. In this regard, the Board intends to innovate and implement an "outreach" program to raise awareness of the mediation programs available, which will include, but not be limited to: providing information on its webpage concerning the programs available; coordinating with CSEAP, CSMP, the Department of Personnel & Administration, the various departments and institutions of higher education, and employee

groups to develop and disseminate written information concerning the mediation programs available; and explore the possibility of establishing links on each department's and institution's webpage regarding mediation and how to obtain these services.

- b. Agree. Implementation: July 1, 2006. The Board believes whistle-blower claims that are filed can be resolved through the processes currently utilized by the Board without referral for investigation. Specifically, a whistle-blower claim filed in conjunction with claims resulting in a mandatory hearing would be heard with such claims; whistle-blower claims otherwise asserted would be processed through the Board's discretionary hearing review process. The Board will work with the General Assembly to make the necessary statutory changes to eliminate the current investigative process by the Department of Personnel & Administration and incorporate the determination of whistle-blower claims in the Board's current hearing process.

Human Resource Auditing

The Department audits state agencies' and higher education institutions' human resource management practices as part of its oversight function. In May 2001 the Department identified eight core human resource functional areas to be assessed through the audit process: human resource organization/administration, hiring and selection activities, job evaluation, employee compensation, performance management, workforce development, employee relations, and records management. The audits are intended to evaluate compliance with applicable laws and rules as well as to identify areas for improvement and model practices that could be shared with other agencies and institutions. In addition, the Department's audit section carries out other functions, such as reviewing documentation of agencies' and institutions' Performance Pay Programs as well as working with some agencies and institutions on writing job descriptions.

We reviewed the Department's audit process and identified significant concerns related to audit coverage and standards, as described in the following sections.

Audit Coverage

We evaluated the number of agencies and core areas audited by the Department during the past four years. We found that the Department has conducted audits in two of the eight core human resource areas noted above: employee compensation (which reviews how the agency develops and communicates employee compensation

plans) and records management (which reviews personnel records to ensure they are in compliance with federal standards). Between May 2001 and November 2002, the Department redesigned its audit process but did not conduct any audits. Between December 2002 and April 2005, the Department completed 25 audits and another 15 were in progress; the Department had not begun audits of the remaining 11 agencies and institutions. Department staff report that they have standardized the format for their audit reports and have recently filled a vacancy, enabling them to complete audits more timely; therefore, the Department estimates it will complete all audits of these two core human resource areas by October 2005. The Department plans to begin audits in one or more of the other core human resource areas after it has completed the employee compensation and records management audits of all state agencies and institutions.

We also reviewed the timeliness of audits. Of a sample of 13 of the 25 audits completed between December 2002 and April 2005, we found that the Department completed an average of about 10 audits per year and that each audit took more than one year to complete. Although final audit reports are generally not issued until more than a year after the start of each audit, the Department stated that audit staff typically communicate their findings to agency human resource administrators while the audit is under way. When we surveyed human resource administrators and directors on the audit process, we found that a majority (70 percent) expected the Department to inform them of audit results more quickly. At the current rate for conducting audits, we estimate that it will take the Department about 15 years to complete audits in the other six core human resource areas.

Finally, we reviewed the Department's practices for ensuring that agencies address audit findings. We found the Department does not conduct follow-up audits to determine if agencies and higher education institutions have implemented recommended changes. Fieldwork for the 13 audits in our sample was completed between February 2003 and October 2004. Reports were issued between May 2004 and April 2005. Findings from some of these audits are now more than two years old and the Department has conducted no follow-up. The audit reports we reviewed included recommendations for agencies to establish confidentiality agreements for all employees working with confidential medical information and to track discretionary pay leave reporting. These types of recommendations protect agencies from liability and potential fraud. By not following up on them, the Department cannot ensure these risks have been addressed.

Audit Standards and Findings

As part of our evaluation of the Department's audit process, we reviewed the standards used to measure agency human resource performance and the types of findings identified during audits. First, we found the Department has not established metrics for evaluating the effectiveness of various components of the State's personnel system. For example, as discussed in Chapter 1, the Department has not identified standards for timely hiring that could be used to assess the effectiveness of the hiring practices of state agencies and institutions. Metrics in various areas, such as the rate of employee turnover and the number of employee complaints, could help both the Department and individual agencies evaluate agency employment practices.

Second, we found that only about 34 percent of the findings from the 13 audits in our sample indicated a financial risk or potential liability created by the problem identified in the audit. The majority of the findings focused on administrative functions, such as establishing the personnel administrator as the official records custodian and improving general file organization. The Department should use other methods, such as the desk audits discussed below, to ensure agency compliance with statutes and rules. This would allow the Department to focus its audit resources in other areas that represent more risk or liability to the State.

Finally, we found the Department has not shared model practices, such as methods for tracking employee leave balances and policies for accessing confidential personnel records, that were discovered through the audit process, with all state agencies and institutions. From our survey of human resource administrators and directors on the audit process, 50 percent of respondents expressed the need for the Department to share model practices. By sharing model practices, agencies can adopt ideas that have been proven successful and beneficial to similar organizations. Georgia has developed a Web site that allows agencies to request information or clarification on a particular human resource issue and is used as a central location for sharing best practices. The Department has been in the process of designing a format for sharing model practices through the Department's Web site. The Department estimates that the model practices will be posted on the Web site by October 2005.

Alternative Oversight Methods

The Department has limited resources available to oversee the human resource management functions of state agencies and higher education institutions. The Department has four staff responsible for human resource audits who also perform other duties, such as providing consultation services to agencies and preparing an Annual Workforce Report. According to the position descriptions for these staff,

auditors should spend 50 to 60 percent of their time conducting audits; we estimate they only spend about 20 to 30 percent of their time auditing.

According to the Society for Human Resource Management (SHRM), most employee lawsuits relate to hiring processes, employee evaluations, disciplinary procedures, and employee terminations, so conducting regular audits in these areas could help the State manage its liability and avoid legal costs. The Department has not performed audits of any of these human resource areas since before 1999. Although the Department plans to conduct audits in these areas in the future, it has not prioritized these audits or developed specific plans and audit approaches to guide these reviews.

The audit-related problems we identified indicate a need for the Department to overhaul its audit processes to provide more effective oversight with the resources it has available. The Department should consider alternative means to evaluate agencies and institutions, including the following:

- **Self-Assessment Tools.** Encouraging agencies to evaluate their own human resource management practices can be a cost-effective means of identifying and addressing areas for improvement. Georgia offers an online self-assessment tool that is used by state agencies to assess their compliance with state and federal regulations, thereby reducing the need for formal audits by the state's personnel department. The survey tool evaluates data input by the agencies and provides feedback on their performance along with a list of corresponding best practices. Texas uses a list of metrics, such as cost per hire, turnover rate, grievance resolution ratio, and training delivery costs, for use by state human resource professionals. State agencies are encouraged to use them to assess, monitor, and improve their performance.
- **Desk Audits.** Currently the Department conducts on-site audits at agencies and institutions. In a desk audit, the agency submits certain documents to the Department where auditors review them to verify compliance with specific human resource policies. Desk auditing provides an effective alternative method for the Department to evaluate whether state agencies and institutions are in compliance with applicable requirements. In addition, the Department could use findings from desk audits to identify the need for complete, on-site, audits and to target training to specific agencies and institutions.
- **Risk-Based Audits.** The Department could implement a risk-based auditing approach by using various types of information, such as dispute data, agency self-assessment outcomes on particular metrics, and desk audits, to identify issues and agencies that pose the greatest risk to the State. For example, the Department could prioritize employee relations audits at agencies that have

a large proportion of disputes filed with the Board. We found four other states that use a risk-based approach for human resource audits. For example, Oregon's personnel department ranks the level of fiscal and legal risk associated with potential audit areas as part of its audit planning process. According to the state's Web site, an area of high fiscal or legal risk has the "potential for significant monetary impact resulting from penalties or legal action or loss of productivity."

Finally, the Department does not have scheduled deadlines for completing each phase of its audits (such as the date planning for the audit should begin, the date fieldwork should commence and end, and the dates the preliminary and final reports should be issued), nor does it track and analyze the time spent on each audit phase. As a result, the Department cannot ensure its resources are used effectively. The Department should establish schedules and deadlines for conducting audits to help keep audits on track and promote timely completion.

Recommendation No. 7:

The Department of Personnel & Administration should improve its monitoring and oversight of the human resource management practices of state agencies and higher education institutions by:

- a. Considering alternative methods for oversight, which includes focusing audits on areas that represent either a financial risk or potential liability to the state; self-assessments, desk-audits, and human resource metrics; and sharing of best practices.
- b. Developing an audit plan that includes specific deadlines for completing all audits and each phase of the audit in a timely manner, and developing specific plans and audit approaches to guide future audits.
- c. Devoting sufficient resources to meet the deadlines established in the audit plan as discussed in (b) above, including tracking and analyzing the time spent on each audit step to ensure its time and resources are used effectively.

Department of Personnel & Administration Response:

Agree. Implementation Date: March 1, 2006. Field auditing 51 departments and institutions of higher education following 30 percent staff reductions over the past three fiscal years presents a significant challenge for the general fund line item that includes the oversight function. While the completion rate

has improved significantly in recent years, there certainly remains room for further improvement. The alternative methods suggested in this report along with other improvements will be considered for use in the next audit cycle to assure quality and timely audits.

The Department will consider alternative methods in developing an appropriate multi-faceted approach to improving its oversight of state human resources management practices. These methods will be evaluated for incorporation into a new more effective audit plan that includes time frames for the various audit stages to improve timeliness of audits and effectively utilize the staff resources available. As the Department further develops metrics and standards, these will also be used to analyze human resources activity and identify critical areas or agencies for field auditing.

The Department will document and disseminate information on model human resources practices and policies as they are identified through the audit process.

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