

# PUBLIC TESTIMONY SUMMARY

## I-900 STATE AUDITOR'S PERFORMANCE AUDIT:

### Department of Commerce User Fees (October 1, 2009)

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As Heard by the Joint Legislative Audit & Review Sub-Committee on I-900 Performance Audits  
on October 21, 2009

*The performance audit being discussed at this hearing was conducted solely and independently by the office of the State Auditor, under the authority of legislation approved by the voters in Initiative 900. The State Auditor is elected directly by the people of the State of Washington and operates independently of the Legislature and the Joint Legislative Audit & Review Committee. Staff to the Joint Legislative Audit & Review Committee prepare a summary of public testimony on State Auditor reports. These summaries are for informational purposes only, and do not serve as an assessment by committee staff of the findings and recommendations issued by the State Auditor nor do they reflect a staff opinion on legislative intent.*

#### **Title: Department of Commerce User Fees**

#### **Audit Scope and Objectives:**

The audit reviewed all fee-related policies and procedures pertaining to Department of Commerce programs in operation during Fiscal Year 2008. SAO reviewed Commerce programs that charge fees to determine if they are managed in accordance with state law and best practices. SAO reviewed programs that do not charge fees to determine if they should charge a fee.

The report indicates SAO conducted this audit to answer the following: Are policies and procedures in place to ensure user fees follow best practice and comply with state law? If not, what is the effect?

In addition, the report indicates that the audit was conducted in accordance with the required elements of Initiative 900.

#### **SAO Findings:**

The audit identifies five issues:

1. Commerce does not have policies and procedures to ensure user fees are set in accordance with best practices and comply with state law.

#### **SAO Recommendations:**

The audit includes recommendations related to each of the five issues, plus two overall recommendations:

- Commerce should develop policies and procedures to ensure fees are managed in accordance with best practices and comply with state law. Commerce should ensure best practices are applied to contractors that manage state resources to ensure fees are consistent and equitable.
- Commerce should develop a method for tracking programs that charge user fees and their related revenue and expenditures to ensure fees comply with state law that requires fee revenue to not exceed the cost of service.

<b>SAO Findings (continued):</b>	<b>SAO Recommendations (continued):</b>
2. Two of Commerce’s programs have not aligned user fees with best practices.	<ul style="list-style-type: none"> <li>• Commerce should work with the Developmental Disabilities Life Opportunities Trust Governing Board to better define the purpose of the trust fee to include the amount of the program cost fees should cover. Commerce should formally and regularly review trust program fees. Given the large and growing balance, the Board should formally review the fee structure and document its review and any resulting fee changes.</li> <li>• Commerce should work with the Public Works Board and the Department of Health to ensure the Drinking Water fees are formally and regularly reviewed.</li> </ul>
3. Some user fees do not comply with state law.	<ul style="list-style-type: none"> <li>• Commerce should adopt fees in administrative rule as required by RCW 43.330.156 and deposit related fees in Commerce’s fee account as required by RCW 43.330.155 and RCW 43.360.050.</li> </ul>
4. Bond Users Clearinghouse Program activities are paid for with fee revenue from the Bond Cap Allocation Program, which is contrary to Bond Cap Allocation Program law. In addition, Bond Users Clearinghouse rules are not updated to conform with state law.	<ul style="list-style-type: none"> <li>• Commerce should use an appropriate fund source to pay for the Clearinghouse. WAC 365-130-030 should be updated to align with RCW 39.44.210 to clarify reporting requirements.</li> </ul>
5. Commerce could reduce general fund spending by between \$2.2 million and \$2.4 million or more over five years if fees were charged for four programs.	<ul style="list-style-type: none"> <li>• SAO identified four programs for which Commerce should consider charging fees: <ul style="list-style-type: none"> <li>○ International Trade;</li> <li>○ Community Economic Revitalization Board;</li> <li>○ Dispute Resolution; and</li> <li>○ The New Americans program.</li> </ul> </li> </ul>
	<p>Two overall recommendations:</p> <ul style="list-style-type: none"> <li>• Commerce should develop policies and procedures for the management of its fee programs and incorporate a requirement [that] all programs be reviewed to identify those programs appropriate for user fee support, consistent with best practice.</li> <li>• Commerce management should discuss with its assigned Assistant Attorney General which new or increased user fees may require legislative approval and/or administrative rules before they are put into place.</li> </ul>
<b>Agency Responses in Audit Report?</b>	Yes; Appendix D has a joint response from the Department of Commerce and the Office of Financial Management.
<b>Legislative Action Requested?</b>	The audit does not contain specific recommendations to the Legislature. However, the joint agency response states that “audit recommendations to establish or raise fees now must be approved by the Legislature” due to passage of Initiative 960 in 2007.

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**Agencies Testifying:**

The Department of Commerce (John LaRocque, Chief Financial Officer; John Thomas, Internal Auditor)

**Summary of Testimony from Audited Agencies:**

It was a difficult task for SAO to look at the 155 different programs that Commerce operates. The audit found some areas where Commerce can improve. We have prepared an action plan handout that explains the steps we are taking. The agency has moved forward on adoption of a consistent policy regarding the imposition of fees and compliance with statute. Two programs flagged in the audit will now have more formal public hearing processes. We had been depositing certain fee revenues in the wrong account; we are in the process of correcting that. Commerce is working with OFM, stakeholders, and others to consider the assessment of fees for the four programs identified in the audit. In accordance with Initiative 960, any proposals would then come before the Legislature.

**Other Parties Testifying:**

(No other parties signed in to testify.)

**Summary of Testimony from Other Parties:**

(No other parties signed in to testify.)