



**CALIFORNIA PRISON HEALTH CARE  
RECEIVERSHIP CORPORATION  
USE OF STATE FUNDS FOR FISCAL YEAR 2008-09**

**OFFICE OF THE  
INSPECTOR GENERAL**

**DAVID R. SHAW  
INSPECTOR GENERAL**

**STATE OF CALIFORNIA**

**JUNE 2010**



June 17, 2010

J. Clark Kelso, Receiver  
California Prison Health Care Receivership Corporation  
501 J Street, Suite 100  
Sacramento, California 95814

Dear Mr. Kelso:

Enclosed is our third annual report on the California Prison Health Care Receivership Corporation's (receivership's) expenditures for fiscal year 2008–09.

During the year, the receivership spent \$91.2 million for its operating costs and long-term capital assets. This amount represents 5 percent of the \$1.8 billion spent in fiscal year 2008–09 to provide medical care to the California Department of Corrections and Rehabilitation's adult inmate population. We noted in the report that the receivership reduced its total number of employees from 24 to 4 as of September 30, 2009. We also highlighted the amount of compensation the receivership paid to its employees and the contractual amounts spent for planning and designing new medical and mental health beds along with a new pharmacy system.

The review disclosed that the receivership implemented our prior recommendations regarding cash management and office space consolidations. Furthermore, our report discusses the receiver's large and growing capital asset expenditures that are outside the state's fiscal and legislative review process. We also reported that the receiver may soon address this issue by establishing procedures to transfer all capital asset projects to CDCR.

Thank you for the cooperation and responsiveness of your staff. If you or your staff have any questions, please call Jerry Twomey, Chief Assistant Inspector General, at (916) 830-3600.

Sincerely,

A handwritten signature in blue ink that reads "David R. Shaw".

David R. Shaw  
Inspector General

cc: Thelton E. Henderson, Senior United States Judge for the Northern District of California

Enclosure

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# Executive Summary

In April 2006, as a result of the *Plata v. Schwarzenegger* litigation, the U.S. District Court for the Northern District of California appointed a receiver with broad powers over the California Department of Corrections and Rehabilitation's (CDCR) delivery of medical care to prisoners after the court found that CDCR's medical care efforts did not meet federal constitutional standards. As a result, the court suspended the CDCR secretary's authority over California's prison medical system and granted this power to the receiver. The court ordered the state to pay all costs that the receiver incurs in carrying out its responsibilities.

Pursuant to the federal court's order establishing the California Prison Health Care Receivership Corporation (receivership), the Office of the Inspector General (OIG) entered into an agreement with the receiver to perform periodic reviews of the receivership's use of state funds for its administrative operations. This report is OIG's third annual report describing those expenditures. Our reviews provide transparency and accountability for the receivership's operation. However, consistent with the court's intent and direction, the scope of these reviews is limited to the receivership's administrative expenditures. As a result, the OIG reviews do not, and are not intended to, include a review of expenditures for direct medical care delivery. Although these reports involve less detailed testing than a typical financial audit, we will nevertheless report any instances of fraud, waste, or abuse that we identify.

The receiver is responsible for managing all medical programs and their related costs, including those costs incurred by CDCR and those incurred for the receivership's operations.<sup>1</sup> The receiver refers to this combined effort, which spent \$1.8 billion on adult inmate medical care in fiscal year 2008-09, as California Prison Health Care Services. The present review for fiscal year 2008-09 covers only the \$91.2 million portion of the \$1.8 billion in state funds spent on receivership operations.

Table 1 presents the details of the receivership's fiscal year 2008-09 expenditures in the four major expense categories detailed in this report. The majority of the \$91.2 million in expenditures went for the planning and design of new facilities, the implementation of new information systems, and the implementation of planned improvements to CDCR's pharmacy system. The remaining portion went for more typical administrative costs, such as salaries and wages, benefits, and rent or lease payments.

**Table 1**  
**California Prison Health Care Receivership**  
**Total Expenditures, by Category and Percentage**  
**Fiscal Year 2008-09**

<b>Category</b>	<b>(In millions)</b>	<b>%</b>
Capital Assets	\$72.1	79%
Professional Fees	12.4	14
Compensation & Benefits	4.5	5
Other Expenses	2.2	2
<b>Total Expenditures</b>	<b>\$91.2</b>	<b>100%</b>

<sup>1</sup> Medical services do not include dental, mental health, substance abuse, or juvenile healthcare.

Key observations made during our review of these expenditure categories include the following:

- Total receivership expenditures increased by \$40 million, from \$51.2 million in fiscal year 2007-08 to \$91.2 million in fiscal year 2008-09.
- Most of the receivership's \$72.1 million in capital asset expenditures were for planning, programming, site selection, and design for new medical and mental health care housing facilities for approximately 10,000 inmates.
- Of that \$72.1 million in capital asset expenditures, \$15.2 million were for constructing or improving assets, such as modular buildings and information systems, for CDCR and its prisons.
- The receiver paid \$5.4 million of the \$12.4 million in professional fees to Maxor National Services Corporation for redesigning and managing CDCR's prison pharmacy system; the remainder related primarily to other professional fees and legal services.
- The salaries of both the former chief of staff and current receiver, inclusive of supplemental performance payments, exceeded the statutory salary of the CDCR's secretary. However, the current receiver's salary was less than half of the preceding receiver's salary.

The OIG also performed follow-up work on recommendations presented in our earlier report and found that the receivership took the following corrective action during fiscal year 2008-09:

- Established a special deposit fund account and a cash management process that minimizes the amount of cash held outside of the state treasury to avoid the risk of losing some or most of those funds through a bank failure.
- Sublet its office space in San Jose and reduced lease costs by 59 percent as of June 30, 2009. Subsequent to our audit period, the receiver closed its Campbell office effective October 31, 2009.

Additionally, the receivership reduced the number of its employees from 24 to seven as of June 30, 2009, and three more employees ended employment as of September 30, 2009 (after the close of the fiscal year under review).

## Receivership's Response

The receivership concurred with the OIG report and did not prepare a formal response.

# Introduction

## Background

### **The court created a receivership to correct the state's failure to provide the constitutionally required level of inmate medical care**

In April 2001, California prisoners filed a class action lawsuit against the state alleging that California officials inflicted cruel and unusual punishment by being deliberately indifferent to serious inmate medical needs.<sup>2</sup> The state settled the lawsuit in 2002, agreeing to overhaul its medical delivery system to ensure timely access to adequate medical care. However, in 2005, the U.S. District Court for the Northern District of California, which oversees the case, found that despite the best efforts of the state, little real progress was being made. Therefore, the court decided to establish a receivership to control the delivery of medical services to inmates in California prisons. In its October 2005 order, the court declared:

*By all accounts, the California prison medical care system is broken beyond repair... and the threat of future injury and death is virtually guaranteed in the absence of drastic action.*

*Accordingly, through the Court's oral ruling and with this Order, the Court imposes the drastic but necessary remedy of a Receivership in anticipation that a Receiver can reverse the entrenched paralysis and dysfunction and bring the delivery of health care in California prisons up to constitutional standards. Once the system is stabilized and a constitutionally adequate medical system is established, the Court will remove the Receiver and return control to the State.<sup>3</sup>*

### ***The court gave the receiver broad powers over prison medical care***

The court suspended the CDCR secretary's exercise of power related to the administration, control, management, operation, and financing of the California prison medical healthcare system and granted these powers to the receiver. The court also provided the receiver with the power to acquire, dispose of, modernize, repair, and lease property, equipment, and other tangible goods as necessary to carry out his duties under the order. To enable the receiver to carry out these duties, the court granted to the receiver unlimited access to all records, files, and facilities maintained by CDCR, as well as access to prisoners and CDCR staff. The court also ordered the state to pay all costs that the receivership incurs in carrying out its responsibilities under the order, and established the following duties for the receiver:

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<sup>2</sup> *Plata v. Schwarzenegger*, C01-1351 TEH.

<sup>3</sup> *Plata v. Schwarzenegger*, C01-1351 TEH, October 3, 2005, Findings of Fact and Conclusions of Law RE Appointment of Receiver.

- Provide leadership and executive management of the California prison medical care delivery system.
- Develop a detailed plan of action designed to restructure and develop a constitutionally adequate medical care delivery system.
- Determine the annual medical care budget and implement an accounting system that meets professional standards.
- Provide the court with bimonthly reports addressing the receivership's progress, particular problems encountered, successes achieved, and an accounting of its expenditures and all other matters deemed relevant.

Furthermore, the court required that the receiver make all reasonable efforts to exercise his powers in a manner consistent with California laws, regulations, and contracts, including labor contracts. However, if the receiver finds that a state law, regulation, contract, or other state action or inaction clearly prevents the receiver from developing or implementing a constitutionally adequate medical health care system, the court stipulates that the receiver shall ask the court to waive the state or contractual requirement causing the impediment.

***The receivership provided three construction options to build new correctional health care facilities to provide between 5,000 to 10,000 medical and mental health patient beds***

In response to the class action lawsuit, the receivership was created to carry out the role established by the court order and serve as the entity through which the receiver carries out his responsibilities under the order. In February 2009, the receiver provided the court with three construction options. The first option included the construction of three new facilities with an estimated 5,000 long term care beds at a projected program cost (to include planning, design, and construction) of \$2.5 billion. The second option was to construct five new facilities and approximately 7,500 beds (5,000 medical and 2,500 out-patient mental health care) at an estimated program cost of \$4.3 billion. The third option included seven new health care facilities and approximately 10,000 medical and mental health care beds, with an estimated program cost of \$6.0 billion.

As noted in the receiver's most recent triannual report, collaboration between his office and CDCR has resulted in scaled back construction plans more consistent with available resources from the state.<sup>4</sup> Instead of the seven facilities discussed above, the revised plan calls for one facility of approximately 1,600 medical and mental health care beds. Additionally, the receiver would convert three juvenile justice facilities, to hold approximately 3,200 inmates with medical and mental health conditions, and receive an

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<sup>4</sup> The receiver issues a report to the court three times each year to provide status reports on the progress made in fulfilling its Turnaround Plan of Action. Objective 6.2 of the Turnaround Plan is to "[e]xpand administrative, clinical and housing facilities to serve up to 10,000 patient-inmates with medical and/or mental health needs." The receiver issued its thirteenth triannual report on January 15, 2010.

allocation of \$700 million for improvements to existing facilities. To carry out the new construction plan, in October 2009 the receiver and CDCR secretary approved construction of a new 1,734-bed health care facility in Stockton, which involves the demolition and re-use of the former Karl Holton youth correctional site.

***The California Prison Health Care Receivership Corporation collaborates with CDCR employees to deliver medical services***

CDCR established the Plata Support Division to provide administrative support functions for operations related to medical care delivery.<sup>5</sup> Receivership and CDCR employees work together under the receiver's direction to manage and implement his action plan to reform the state's delivery of prison medical care. The receiver refers to this combined effort as California Prison Health Care Services.

**The Office of the Inspector General agreed to complete periodic reviews of the receivership's use of state funds**

As the executive manager over adult inmate medical services, the receiver is responsible for managing all costs associated with these services. These costs include those that are incurred both by CDCR's medical operations and by the receivership's operations. To ensure the transparency and accountability of the receivership's operations, the court required the receivership to coordinate with the OIG to facilitate periodic reviews of its administrative operations. To carry out this responsibility, we agreed with the receiver to periodically review the receivership's expenditures—which amounted to \$91.2 million for fiscal year 2008-09—and to produce a public report for the court that describes how the receivership uses state funds. We will perform similar reviews annually until the court terminates the receivership. This is our third annual report.

## Objectives, Scope, and Methodology

Our agreement with the receiver calls for the OIG to issue a public report periodically that describes how the receivership uses state funds. Consistent with the federal court's intent, these reports cover only that portion of state funds spent directly by the receivership for its operations; they do not include the portion of state funds that CDCR spends under the receiver's authority. Our work involves less detailed testing than a typical financial audit, but the OIG will report any instances of fraud, waste, or abuse that we become aware of during our review.

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<sup>5</sup> The Plata Support Division was later renamed to the Administrative Support Division.



This is our third review, and it covers the receivership's expenditures for fiscal year 2008-09. In conducting our work, we performed the following procedures:

- To understand the nature and scope of projects undertaken during the fiscal year, we interviewed key receivership and CDCR employees. We also reviewed the prior OIG report issued in 2009 to determine whether the receivership had taken corrective action regarding cash management and leased office space in Campbell.
- To verify the amount of state funds paid to the receivership, we reviewed budget and banking-related documents and interviewed key employees from the receivership and CDCR. We then reconciled this amount to the amount that the receivership reported in its financial statements.
- To understand how the receivership managed its unused cash compared to how the state performs this function, we reviewed banking-related documents and state treasury information.
- To determine the receivership's portion of CDCR's total expenditures for inmate medical services, we reviewed CDCR's expenditure data.
- To determine the nature of the receivership's expenditures, we obtained detailed accounting reports and identified significant expense accounts. We then reviewed a sample of transactions from selected expense categories and determined the purpose of each sample expense by reviewing various source documents. We did not evaluate the efficacy of the goods or services for which the receivership expended funds.

In addition, we contacted the public accounting firm that is auditing the receivership's financial statements for fiscal year 2008-09. The public accounting firm may make adjusting entries and other audit adjustments subsequent to our review, which may affect the total expenditures identified in this report. The firm told us that it had not become aware of any instances of fraud, waste, or abuse during its audit of the receivership's financial statements for the period July 1, 2008 through June 30, 2009. As of April 20, 2010, the public accounting firm had not issued its report for release to the public. Within the scope of our limited review, we did not become aware of any instances of fraud, waste, or abuse.

# Review Results

Under the direction and authority of the federally appointed receiver, California Prison Health Care Services, which consists of both receivership and CDCR employees, the state spent \$1.8 billion during fiscal year 2008-09 to provide medical services to its adult inmate population.<sup>6</sup> The California Department of Corrections and Rehabilitation (CDCR) expended 95 percent of these funds, and the receiver spent the remaining 5 percent, or \$91.2 million, through the California Prison Health Care Receivership Corporation (receivership). Of the \$91.2 million, the receivership spent \$72.1 million for capital assets, primarily for planning, programming, site selection, and design for new medical and mental health care facilities for approximately 10,000 inmates. The receivership spent the remaining \$19 million in three general categories: professional fees, compensation and benefits, and other expenses. In this report, we describe how the receivership received, managed, and used the \$91.2 million in state funds through its corporation.<sup>7</sup>

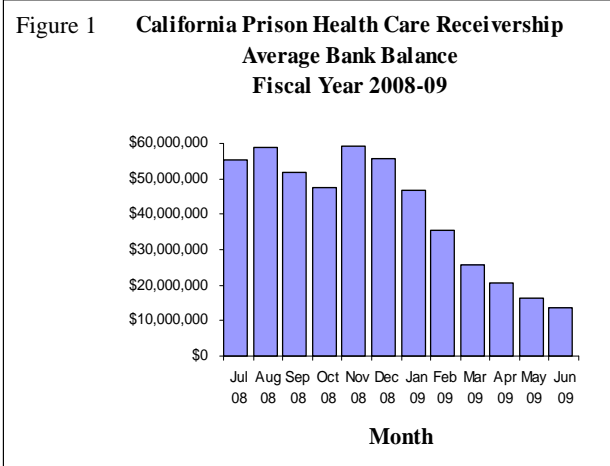
## Receipt of State Funds

The court ordered the state to pay all costs that the receivership incurs in carrying out its responsibilities. To manage its operating funds and comply with the court's order, the receivership established its own bank accounts and arranged with CDCR to replenish its accounts regularly. The receiver worked with CDCR, the California Department of Finance, and the State Controller's Office to establish a system to authorize and transfer state general funds to the receivership.

The receivership started fiscal year 2008-09 with a \$13.6 million cash balance and received another \$96.1 million in state funds during the year. As shown in Figure 1, the receivership maintained average daily cash balances ranging from \$13.7 to \$59.2 million, with an average daily balance of more than \$40 million.

### **The receivership established a special deposit fund account**

In our prior report, we found that the receivership maintained an average daily balance of \$22 million in unused cash, which it held in numerous bank accounts, including a money market account. However, according to the receivership's independent financial auditor, the Federal Deposit Insurance Corporation insured only \$100,000 of the receivership's cash



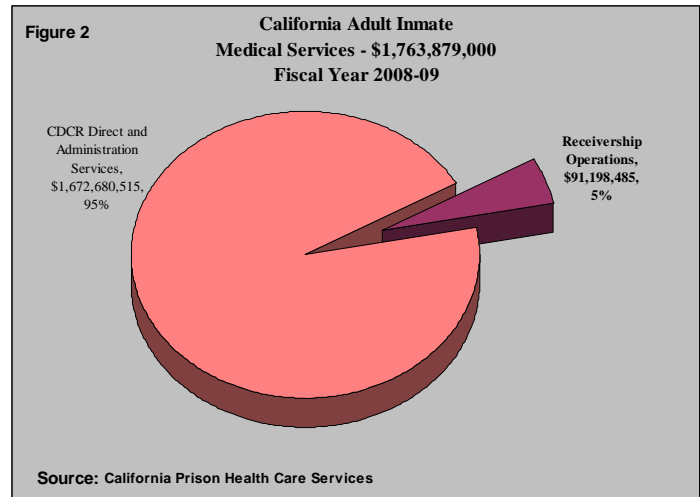
<sup>6</sup> This amount excludes costs to provide dental, mental health, substance abuse, and juvenile healthcare services.

<sup>7</sup> We describe how the receivership spent the \$91.2 million; however, as cited in the scope section of this report, we did not review the remainder of the \$1.8 billion in state costs for adult medical care.

balance.<sup>8</sup> The OIG recommended that the receiver work with the appropriate state offices to establish a cash management process that minimizes the amount of cash that the receivership holds outside the state treasury, to avoid the risk of losing part or most of those funds through a bank failure. In April 2009, the receiver obtained authorization for a special deposit fund in the state treasury and transferred \$10,000,000 into this account in July 2009. The average daily cash balance held outside the state treasury was less than \$100,000 by December 2009.

## Use of State Funds

As shown in Figure 2, CDCR and the receivership spent \$1.8 billion for adult inmate medical services during fiscal year 2008-09. Most of these funds—95 percent—were spent for activities undertaken by CDCR under the receivership’s authority. The receivership spent the remaining 5 percent of the \$1.8 billion, or \$91.2 million, to support its operations and to purchase capital assets.



To carry out its court-ordered mandate, the receivership hires employees, executes contracts, and otherwise incurs costs of doing business. Of the \$91.2 million spent by the receivership, \$19.1 million went for its operating costs, most of which were for professional services provided by consultants and for personnel services related to salaries and benefits for the receivership’s employees. The receivership spent the remaining \$72.1 million to acquire capital assets, with the majority of those costs going for the planning and design of facilities to provide 10,000 new medical and mental health beds for inmates.

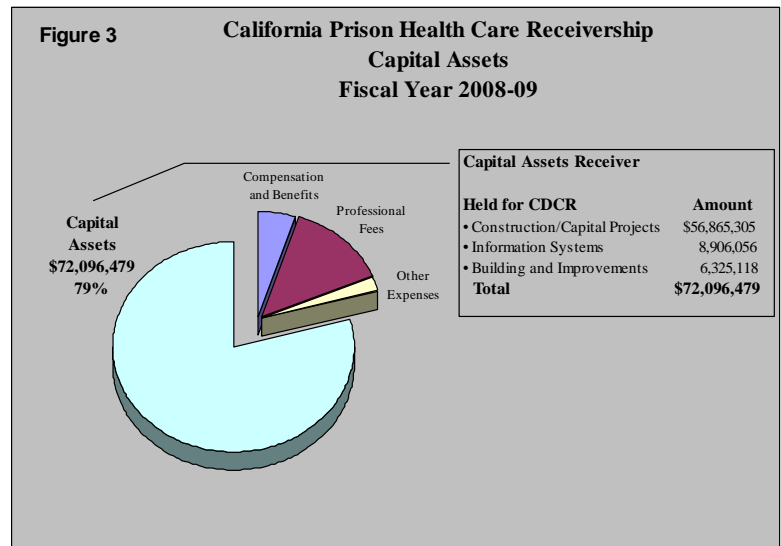
As shown in Table 2, the receivership spent 78 percent more than in the previous fiscal year. This increase was primarily due to the 151 percent increase in spending on capital assets for the receivership’s planning and design for the 10,000-bed program. In the following sections, we present in detail the \$91.2 million spent by the receivership in fiscal year 2008-09.

Description	FY2007-08 Amount	FY2008-09 Amount	% Increase (Decrease)
Professional Fees	\$13,469,645	\$12,399,903	(8)%
Salaries, Wages & Benefits	7,250,391	4,504,415	(38)%
Other Expenses	701,714	1,619,866	131%
Travel	501,099	278,987	(44)%
Rent and Lease	230,258	93,930	(59)%
Office Expenses	111,388	77,593	(30)%
Telephone & Network Lines	109,071	59,356	(46)%
Insurance	86,516	67,956	(21)%
<b>Total Operating Expenses</b>	<b>\$22,460,082</b>	<b>\$19,102,007</b>	<b>(15)%</b>
<b>Total Capital Asset Expenses</b>	<b>\$28,730,944</b>	<b>\$72,096,479</b>	<b>151%</b>
<b>Total Expenses</b>	<b>\$51,191,026</b>	<b>\$91,198,485</b>	<b>78%</b>

<sup>8</sup> Effective October 3, 2008, through December 31, 2013, the FDIC has temporarily raised the federal deposit insurance coverage to \$250,000.

## Capital Assets

During fiscal year 2008-09, the receivership spent \$72.1 million on capital asset expenditures, as shown in Figure 3. Capital assets, sometimes called fixed assets, are assets that the receivership purchases to carry out its responsibilities over a long period. Capital assets include items such as buildings, office equipment, and information systems. The receivership capitalizes asset purchases exceeding \$1,000 and depreciates the cost over the assets' useful lives.



For this report, we present the actual amount that the receivership spent on capital assets and projects in progress between July 1, 2008 and June 30, 2009. The receivership's acquisition of capital assets during this period accounted for 79 percent of its expenditures. The receivership includes in its capital asset category two subcategories: assets held for CDCR and assets held for the receivership. Since the receivership's inception in April 2006, the total value of capital assets acquired as of June 30, 2009 (net of accumulated depreciation) is \$105,701,148. Of this amount, \$105,273,362 is held on behalf of CDCR and \$427,786 is held for receivership operations.

### **Most of the receivership's capital asset costs went for program management services for the 10,000-bed medical facilities project**

Of the receivership's \$72.1 million in capital asset expenditures, it spent \$56.9 million on capital projects in progress, including \$44.9 million for services on the 10,000-bed project.<sup>9</sup> These services included preliminary site assessments and construction planning to provide 10,000 new medical and mental health care beds and related facilities. The majority of payments were made to URS/BLL (a joint venture with URS Corporation and Bovis Lend Lease) for site assessment, infrastructure planning, consulting services, and program management, to deliver new health care and related facilities. The receivership's contract with URS/BLL began in June 2007, with a total contract value of \$51,200,858. Specifically, the agreement called for URS/BLL to provide consulting services "in connection with the evaluation and assessment of the condition of existing CDCR health care facilities, the need for renovation, improvement, replacement or expansion of these facilities, and management of design, construction, and commissioning of any related projects." Thus far, the receiver and the CDCR secretary have approved one new 1,734-bed prison medical care facility in Stockton.<sup>10</sup>

<sup>9</sup> As discussed in the background section, the receivership has recently scaled back construction plans; however, during the period of our review, the receiver was proceeding with the 10,000 bed project.

<sup>10</sup> In October 2009, the receiver formally approved the California Health Care Facility at Stockton, which involves the demolition and re-use of the Karl Holton site (formerly a youth correctional facility).

The following are seven projects for which we reviewed sample expense transactions in this category during fiscal year 2008-09:

- \$24,023,499 to URS/BLL for professional services to deliver new health care and related facilities. The services provided included, in part, conducting site and facilities assessments; providing technical liaison services between the receivership and other organizations, including CDCR; and providing support to the receivership in reviewing facilities and existing infrastructure to determine capacities and other construction challenges. Since June 2007, the receivership has paid URS/BLL \$33,841,481 of the \$51,200,858 contract amount.
- \$6,563,157 to DPR Construction for planning, programming, site selection, design, construction, and commissioning for new medical and mental health care housing for approximately 10,000 inmates.
- \$6,097,930 to Hensel Phelps Construction Company for preliminary design and pre-construction services to provide 10,000 new medical and mental health care beds and related facilities.
- \$5,198,003 to JL Modular, Inc. for the design and construction of modular health care services clinics and administration buildings at Avenal State Prison. Among other things, this project included architecture and engineering expenses and expenses for placing utilities underground at the following locations within Avenal State Prison: 1) Clinic Buildings A & B; 2) Administration Building; and 3) Administrative Segregation Building D.
- \$4,974,362 to Vanir Construction Management for program management services for the healthcare facility capital improvement program at multiple facilities located statewide. Services included master planning, design, and construction management at Avenal State Prison, Correctional Training Facility, California Rehabilitation Center, and Mule Creek State Prison.
- \$316,567 to Owen Group for general code compliance consulting services in support of the receiver's program to provide 10,000 new medical and mental health care beds and related facilities.
- \$142,745 to McDonough Holland & Allen for professional legal services regarding design and construction at the receiver's San Quentin project. The hourly rates for attorneys range from \$205 to \$350.

## **The receivership spent \$8.9 million for information systems equipment and software**

We reviewed payments for services provided on the Clinical Data Repository and Portal Solution project. The project manages patient-inmate identity and demographic information and accurately links patient-inmates to their respective electronic health information. We also reviewed a payment for the Health Care Document Management System (HCDMS), an electronic medical contract and invoice processing system. Examples of payments made for information systems equipment and software include:

- \$8,220,878 to IBM for services completed under the Clinical Data Repository and Portal Solution agreement. Payments included labor charges for software installation, configuration, and implementation of the electronic medical record as well as associated travel charges. The receivership's contract with IBM began in June 2008, and the receivership has paid \$11,628,996 of the \$22,921,345 contract amount.
- \$655,031 to Unisys Corporation for work completed on the projects, "HCDMS posting and payment processes and interfaces CALSTARS and SCO" and "HCDMS bidding and contracting processing enhancements." The receivership's contract with Unisys began in September 2006, and the receivership has paid \$6,010,578 of the \$6,734,606 contract amount.

## **The receivership spent \$6.3 million on building and improvement costs**

Building and improvement costs are additions or structures that enhance a property, or replacements or upgrades that extend the useful life of an asset that has been placed into service. The receivership paid \$6,325,118 for building and improvement costs during fiscal year 2008-09. An example of these expenditures include the following:

- \$2,178,717 to American Custom Coach, Inc. to fabricate and deliver six mobile clinics (medical trailers) to multiple state prisons. The medical trailers each have a reception area, two exam rooms, and a restroom. Costs for the project also include work related to electrical, cooling and heating, cabinetry and furniture, lighting, plumbing systems, and other incidental equipment. Medical trailers were fabricated and delivered to Avenal State Prison and Wasco State Prison during fiscal year 2008-09.

## Comments from the Office of the Inspector General

As shown in Table 3, the receivership's acquisition of capital assets has progressively increased from \$8.7 million to \$72.1 million, accounting for 79 percent of total expenditures in fiscal

<b>Description</b>	<b>FY2006-07</b>	<b>FY2007-08</b>	<b>FY2008-09</b>
<i>Total Capital Asset Costs</i>	<b>\$8,766,710</b>	<b>\$28,730,944</b>	<b>\$72,096,479</b>
<i>Total Expenditures</i>	<b>\$20,161,490</b>	<b>\$51,191,026</b>	<b>\$91,198,485</b>
<i>Percentage of Total Capital Asset Spending</i>	<b>43%</b>	<b>56%</b>	<b>79%</b>

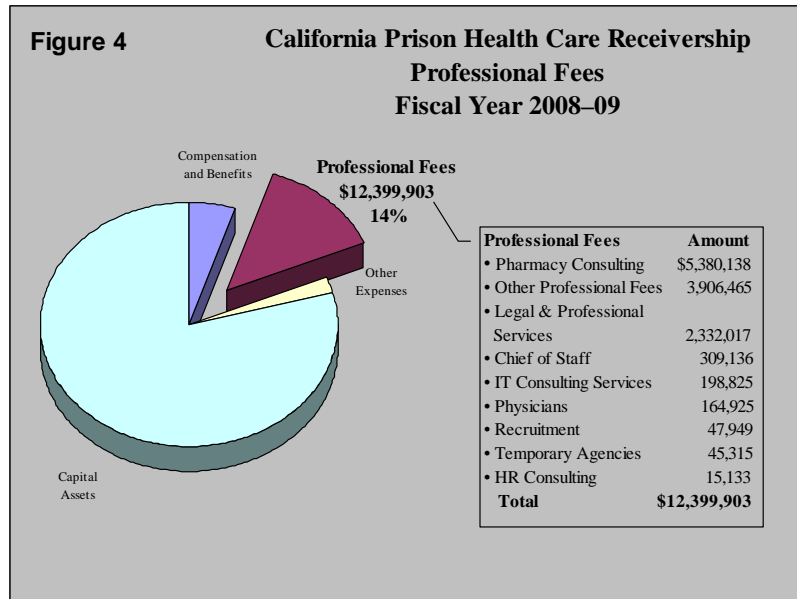
year 2008-09. While the court has granted the receiver virtually total authority over all medical operations to ensure an adequate medical health care delivery system, the receiver's large and growing capital assets expenditures, which are outside of the state's fiscal and legislative review process, raises concerns. Unless the receiver is following good business practices such as requesting competitive bids and evaluating bidders' qualifications, the state may end up with overpriced and poor quality work that fails to deliver adequate inmate medical care. According to a receivership official, the receiver may soon address some of our concerns by establishing procedures to transfer all capital asset projects to CDCR.

## Professional Fees

The receivership enters into contracts for the services of certain professionals to carry out its duties. As shown in Figure 4, the receivership spent \$12.4 million on professional fees during fiscal year 2008-09.

Approximately 43 percent of these payments were made to a contractor that provides pharmacy management consulting services. Professional fee expenditures also included payments for other professional services, including the receiver's compensation, legal services, and compensation for the receiver's chief of staff.

The \$12.4 million for professional fees represents 14 percent of the receivership's expenditures for fiscal year 2008-09.



### Pharmacy consulting represents 43 percent of the receivership's professional fee costs

For fiscal year 2008-09, the receivership paid Maxor National Services Corporation (Maxor) \$5.4 million to help improve CDCR's prison pharmacy system.<sup>11</sup> The receivership's contract with Maxor began in 2007 and terminates at the end of 2010. The total contract value is \$39,897,141 and according to the terms of the contract, Maxor has undertaken the following seven specific goals:

1. Develop meaningful and effective centralized oversight, control, and monitoring over the pharmacy services program.
2. Implement and enforce clinical pharmacy management processes.
3. Establish a comprehensive program to review, audit, and monitor pharmaceutical contracting and procurement processes.
4. Develop a meaningful pharmacy human resource program.
5. Redesign and standardize overall institution level pharmacy drug distribution operations.
6. Design and implement a uniform pharmacy information management system.
7. Develop a process to ensure that CDCR's pharmacy meets accreditation standards.

<sup>11</sup> See the Office of the Inspector General, April 2010 Report, *Special Report: Lost Opportunities for Savings within California Prison Pharmacies*. The report can be viewed at <http://www.oig.ca.gov/>.



## **The receivership spent \$3.9 million for various other professional fees**

The receivership contracted for professional services in business matters for which it did not have in-house expertise. Examples of professional fees paid include the following:

- \$1,491,548 to Health Management Associates for a comprehensive assessment of CDCR's health care system related to chronic diseases, including the "Asthma Initiative for California Adult Prison Facilities," which focuses specifically on asthma screening and treatment.
- \$565,446 to Chancellor Consulting Group for making a comprehensive assessment of CDCR's consultation on managed care issues, conducting financial analysis, and providing support for contract negotiations or analysis related to health plans, medical groups, and physician services.
- \$366,847 to the State of California Administrative Office of the Courts (AOC) for reimbursement of the receiver's services.<sup>12</sup> In January 2008, the court appointed J. Clark Kelso as the receiver. The provision of services for Mr. Kelso included supplemental performance-based payments, in amounts determined by the court. In January 2009, the judge approved a supplemental performance payment of 25 percent of the receiver's base compensation "based on Mr. Kelso's exceptional leadership and performance under the Turnaround Plan of Action I approved in June 2008."

Subsequently, the Board of Directors of the receivership approved the supplemental performance payments retroactively to the receiver's date of hire, January 23, 2008. Thus, the total compensation for fiscal year 2008-09 included the following: \$224,004 base salary, \$56,000 one-time supplemental performance payment, \$23,333 supplemental performance payments, and \$63,510 in other benefits or fees. As noted at page 15 of this report, the receiver's base annual compensation is \$224,004, which was less than half of the previous receiver's compensation. The receiver's base compensation is also less than the CDCR secretary's \$225,000 statutory annual salary.

## **The receivership also spent \$2,332,017 on legal services during the year**

The receivership contracted for legal services for which it did not have in-house expertise. Examples of legal services paid include:

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<sup>12</sup> The receivership did not pay the receiver from its payroll system; rather, the receiver is on loan to the receivership from the AOC.

- \$1,075,030 to Morrison & Foerster LLP for providing legal services related to contempt proceedings in the *Plata v. Schwarzenegger* case. In July 2008, the receiver had requested \$204.6 million from the state to fund the receiver's capital projects, including the planning and site selection of expanded prison health care facilities and housing. The state refused to comply with this request, and the receiver filed a motion for an order holding the state in contempt for failure to fund these projects. The Ninth U.S. Circuit Court of Appeals dismissed the state's appeal as non-final because further proceedings relating to the contempt were contemplated. Morrison & Foerster LLP represented the receivership on pre- and post-hearing matters, subsequent contempt hearings, and other proceedings. According to the contract, hourly rates for attorneys range from \$295 to \$900. Our review of one of the invoices found that three attorneys performed the bulk of the services and billed at hourly rates of \$311, \$455, and \$537.
- \$692,419 to Futterman & Dupree LLP, which provided general legal services including representation in federal receivership proceedings involving the California prison health care system and on *habeas corpus* cases. The hourly rates for attorneys range from \$225 to \$350.

### **Payments to the receivership's former chief of staff totaled \$309,136**

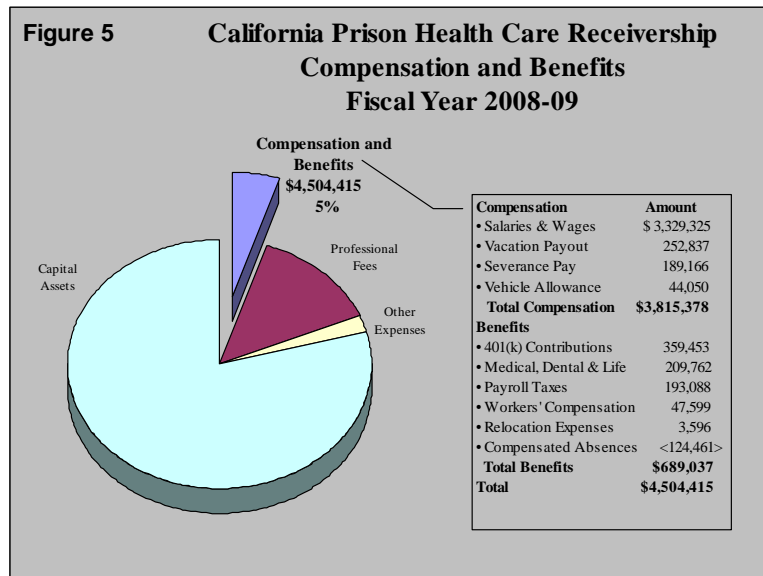
In addition, the receivership paid its former chief of staff \$309,136 for his services during fiscal year 2008-09. He worked for the receivership as an independent contractor rather than as an employee. Under his agreement with the receivership, the receiver paid the former chief of staff \$250 per hour for his services and reimbursed him for ordinary and reasonable expenses incurred in performing his services.<sup>13</sup> He was responsible for (1) coordinating the receiver's activities; (2) ensuring the flow of accurate information to and from the receiver and the receivership; and (3) providing integrated policy analysis and strategic consultation to the receiver and the receivership.

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<sup>13</sup> The former chief of staff was paid \$237.50 per hour during March 2009; his position with the receivership ended effective March 12, 2009.

## Compensation & Benefits

As shown in Figure 5, during fiscal year 2008-09 the receivership incurred over \$4.5 million in compensation and benefits-related expenses, amounting to 5 percent of the receivership's total expenditures. Employee compensation included salaries and wages, severance pay, vacation payout, and vehicle allowances, while benefits comprised the six sub-accounts shown in Figure 5.



From July 2008 through June 2009, in addition to the receiver, the receivership employed as many as 24 people, to whom it paid either a salary or an hourly rate. The receivership separated 17 of the 24 employees during the fiscal year, including seven employees that it separated on June 30, 2009. Seven employees remained on payroll as of July 1, 2009: three executives and four non-executives. The reduction in receivership employees appears consistent with the receivership's intention to return management of inmate medical services to CDCR. Subsequent to our review period, we learned that three of these remaining employees ended employment by September 30, 2009, and that a former Custody Support Services Specialist returned October 1, 2009, on a part-time hourly basis.

Five of the seventeen separated employees received severance payments during fiscal year 2008-09. The former Chief Nurse Executive and Chief Medical Officer received three and one-half months' severance pay, equal to \$87,500 and \$71,459, respectively. Both employees had severance clauses included in their employment agreements approved by the previous receiver. The severance was intended to

“...assist Employee to transition to other opportunities, to protect [Receivership] interests, to preserve the goodwill existing between employee and the [Receivership], and to resolve any and all issues and disputes that may exist from or relating to Employee's employment, and termination of employment, with the [Receivership].”

The current receiver approved severance pay for the three remaining separated employees. Salary payments were for two, three, and six weeks, respectively, ranging from \$5,553 to \$16,000, as part of the severance agreements and releases. Only one of the five separating employees returned to state service in 2009.

Table 4 at the end of this section details the total compensation the receivership paid to each of the 24 employees during the review period. No employees received annual salaries that were the same or more than the CDCR secretary's \$225,000 statutory salary, except for the Chief Nurse Executive, Chief Medical Officer, and Chief Medical Information Officer. This is in contrast to the prior OIG review in which the salary of eight employees exceeded that pay level.<sup>14</sup>

Employee compensation also included a monthly vehicle allowance of \$500. As indicated in Table 4, the receivership paid ten employees vehicle allowances totaling \$44,050 during fiscal year 2008-09.

The largest benefit expense during the review period was receivership contributions to its employees' 401(k) retirement plan, which totaled \$359,453. The receivership made monthly 401(k) contributions equal to 12.5 percent of base salary for executive employees and 7.5 percent for non-executive employees.

In addition, the receivership paid \$209,762 for medical, dental, and life insurance for its employees electing to receive the benefit from July 2008 through June 2009. The receivership paid the entire cost of these insurance items for its employees.

Payroll taxes represented another large benefit expense during the review period. This benefit included the employer portion of Social Security and Medicare payments, totaling \$193,088. The receivership also paid \$47,599 for workers' compensation insurance.

Compensated absences, or unused vacation pay, is payable upon termination from employment with the receivership. The receivership reduced its reserve for compensated absences by \$124,461, based on the current pay rates of its full-time employees as of June 30, 2009.<sup>15</sup>

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<sup>14</sup> The receiver's base salary of \$224,004 and supplemental performance payments is not included in this category; it is presented in the Professional Fees section.

<sup>15</sup> Compensated absences reported in the financial statements do not require the use of current financial resources and, therefore, are not reported as expenditures in the general fund.

**Table 4****Total Employee Compensation Paid by Receivership  
Fiscal Year 2008–09**

Employee	Position	No. of Mos.	Salary & Wages	Vehicle Allowance	Severance Pay	Vacation Payout *	Total Paid
<b>Remaining Employees, as of July 1, 2009**</b>							
Kirkland	Director, Plata Support Division	12	\$182,222	\$6,000	N/A	N/A	\$188,222
Goldman	Chief Counsel	12	150,000	6,000	N/A	N/A	156,000
Carlisle (a)	Chief of Rehabilitation	11.75	153,333	0	N/A	N/A	153,333
Cameron (b)	Controller	12	120,022	0	N/A	N/A	120,022
Lucas (c)	Investigation & Discipline Coordinator	12	109,000	0	N/A	N/A	109,000
Seago (d)	Staff Accountant	9.5	49,640	0	N/A	N/A	49,640
Lerner (e)	Staff Attorney	12	49,480	0	N/A	N/A	49,480
<b>Separated Employees, as of June 30, 2009</b>							
Ha	Chief Nurse Executive	10	250,000	5,000	87,500	19,038	361,538
Hill, T.	Chief Medical Officer	8.5	245,449	4,208	71,459	25,442	346,558
Graham	Chief Medical Information Officer	11.75	267,772	5,842	0	38,076	311,690
Clark	Director of Nursing Operations	10	209,295	5,000	0	34,615	248,910
McGrath	Director, Custody Support	11	213,444	0	0	17,168	230,612
Moy	Director, Health Information Integration	11.75	148,943	0	8,654	10,140	167,737
Rea	Nursing Director	6	112,500	3,000	0	31,153	146,653
Meier (f)	Custody Support Services	11	133,023	0	0	7,686	140,709
Robinson	Nursing Director	6	112,500	3,000	0	25,095	140,595
Scott	Nursing Director	6	112,500	3,000	0	19,038	134,538
Dovey	Custody Support Specialist	11	130,779	0	0	0	130,779
Cambra Jr.	Custody Support Specialist	10	121,066	0	0	0	121,066
Weston	Special Assistant	8.5	97,245	0	16,000	5,080	118,325
Buzzini	Staff Attorney	11	110,698	3,000	0	0	113,698
Russell	Health Care Project Officer	7.5	90,230	0	5,553	13,049	108,832
Hector	Staff Attorney	11.75	91,669	0	0	0	91,669
Hill, D.	Custody Support Services	11	66,512	0	0	6,474	72,986
Saich (g)	Coordinator	N/A	N/A	N/A	N/A	783	783
<b>TOTALS</b>			<b>\$3,327,322</b>	<b>\$44,050</b>	<b>\$189,166</b>	<b>\$252,837</b>	<b>***\$3,813,375</b>

(a) This person's employment ended effective August 14, 2009.

(b) The controller's position was half-time through May 2009. Effective June 2009, the controller worked part-time at an hourly rate of \$120.

(c) This person's employment ended effective August 31, 2009.

(d) The employee began employment in September 2008.

(e) This employee worked part-time at an hourly rate of \$80; employment ended effective September 30, 2009.

(f) This employee was re-hired on a part-time hourly basis effective October 1, 2009.

(g) This person's employment ended effective June 30, 2008; vacation payout was issued in August 2008.

\* Vacation payout represents payment for vacation earned but not used as of separation date.

\*\* Compensation for the receiver, Mr. Kelso, is presented in the professional fees section.

\*\*\* Amount does not agree with total Compensation presented at the beginning of this section because of an immaterial difference of \$2,003, which we did not pursue.

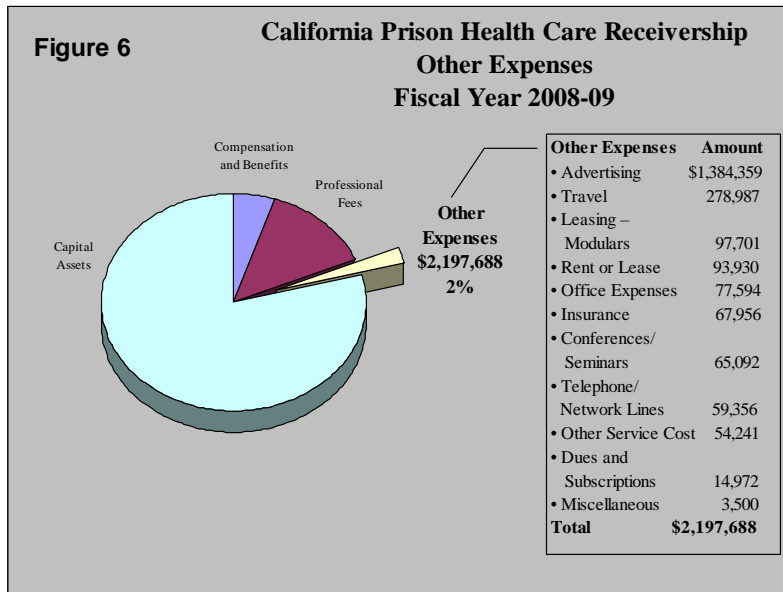
## Other Expenses

Other expenses include all of the remaining costs incurred by the receivership. As indicated in Figure 6, a wide range of items is included in this category, which totaled \$2,197,688. This amount accounted for only 2 percent of the receivership's expenditures for fiscal year 2008-09.

The largest item in this cost category was advertising expenses associated with continuing recruitment of

medical professionals. The receivership spent \$1,384,359 on advertising during fiscal year 2008-09, a 188 percent increase from the \$480,934 incurred during the last fiscal year. All advertising costs were paid to the Bernard Hodes Group for the "Marketing and Recruitment Campaign for CDCR Health Care Professionals" project. The receivership awarded the marketing contract to the Bernard Hodes Group in January 2008. The project was to develop a recruitment campaign targeted to fill 90 percent of all physician vacancies in CDCR's adult prisons. The receiver's Human Resources Recruitment and Retention Report indicate that approximately 87 percent of physician positions were filled as of November 30, 2009. As of the end of fiscal year 2008-09, the receiver transferred this contract to CDCR.

The receivership's costs for lease payments were significantly reduced from the previous fiscal year due to a new sub-lease agreement for its San Jose office. Lease payments decreased by 59 percent from \$230,258 to \$93,930 for fiscal year 2008-09. Although the receivership moved from San Jose to Sacramento, it had remained liable for a five-year non-cancelable lease obligation through July 31, 2011, for the San Jose office totaling \$18,488 per month. The sub-tenant agreed to pay the receivership \$17,146 per month for the remaining liability period, which totaled \$188,610 in rental income for 11 months of fiscal year 2008-09. The receivership continues to pay the remaining amount of \$1,342 per month. In May 2008, the receivership began renting an office in Campbell, near San Jose. The controller and an accountant were using this office and retaining records there. The receiver had a monthly lease obligation of \$1,100 through October 31, 2009, and spent \$1,216 on a storage unit. The receiver implemented the OIG's recommendation to consolidate its operations in Sacramento by closing the Campbell office at the lease's expiration in October 31, 2009.



Response from the  
California Prison Health Care  
Receivership Corporation

The receivership concurred with the OIG report and did not prepare a formal response.