

California Department of Child Support Services



Compromise of Arrears Program Report to the Legislature

January 2008

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Executive Summary

In the mid 1990s, California experienced a dramatic growth in child support arrears. In 2000, in response to a legislative mandate to evaluate the collectibility of those arrears and gain an understanding of the debtors, the Department of Child Support Services (DCSS) contracted with the Urban Institute to conduct a study entitled "Examining Child Support Arrears in California: The Collectibility Study." A number of child support debt management strategies emerged from this study. One strategy was the creation of an opportunity for noncustodial parents to compromise child support arrears and interest owed as reimbursement for public assistance in exchange for partial repayment of arrears, and in some cases current child support to the family. In 2003, Assembly Bill 1752 (Chapter 225 Statutes of 2003) mandated several recommendations from the study, including a pilot compromise program. As a result, DCSS developed the Compromise of Arrears Program (COAP) that has been in statewide operation for over four years.

Since its statewide implementation in 2004, COAP has experienced a steady growth and has demonstrated effectiveness in reducing arrears. To date, DCSS has received over 10,000 compromise applications that total \$89 million in settled arrears. COAP continues to be a valuable tool for collecting arrears that were once deemed uncollectible and reducing California's growing child support arrears balance. COAP also assists California to meet federal performance measures in child support collections and supports the Department's mission to help families. In addition, COAP is recognized by the Urban Institute and the federal Office of Child Support Enforcement (OCSE) as an innovative initiative that is helping to reduce California's arrears growth.

Due to the implementation of COAP:

- More than \$89 million in arrears have been settled during the following state fiscal years (SFY)
 - SFY 03-04 - \$3.9 million
 - SFY 04-05 - \$15.5 million
 - SFY 05-06 - \$24.1 million
 - SFY 06-07 - \$46.0 million
- Over \$12 million has been collected on these settled arrears
 - SFY 03-04 - \$1.2 million on 141 cases
 - SFY 04-05 - \$3.4 million on 589 cases
 - SFY 05-06 - \$2.8 million on 991 cases
 - SFY 06-07 - \$5.1 million on 1,863 cases

DCSS recommends a two year extension of the offer in compromise program because COAP has proven to be a revenue-generating program, resolving large, uncollectible arrears balances and recouping public assistance expenditures for the state general fund. A two year extension will allow DCSS to evaluate program changes that will enhance the revenue generating capability of the program.

I - Statutory Report Requirement

This report is submitted to meet Assembly Bill 1808 (Family Code section 17560 section (l)) requiring the Department of Child Support Services (DCSS) to report on the results of the Compromise of Arrears Program (COAP) by January 2008.

II - Compromise of Arrears Program

A. Background

As of March 2000, California had a balance of \$14.4 billion in child support arrears. By 2003, arrears had grown to \$18 billion, which represented 20 percent of the nation's child support arrears. In comparison to the rest of the country, arrears in California were growing at a much faster rate. In "*Examining Child Support Arrears in California: The Collectibility Study (2003)*" the Urban Institute indicated that arrears were highly concentrated among a relatively small percentage of debtors who owed large balances. Nearly three quarters of the debt was held by a little more than one quarter of debtors, each owing more than \$20,000 in arrears. Of those arrears, 70 percent were owed to the government to recoup public assistance paid to families; only 30 percent was owed to families. Over half of the arrears were owed by noncustodial parents (NCPs) with net incomes below \$10,000. The Urban Institute estimated that by 2010, if no policy or programmatic changes were made, California could expect to collect only a quarter (\$3.8 billion) of the \$14.4 billion in child support arrears, and by that time the debt, including new arrears and interest, would increase to \$34 billion.

The study found the main factors contributing to California's large arrears balance included:

- Accrual of 10 percent annual interest on child support debt
- High child support orders established for low-income obligors
- Establishment of retroactive child support orders
- A limited number of child support orders adjusted downward

The Urban Institute made a series of recommendations to increase the collection of arrears and reduce their continued escalation. However, assuming every effort was made to increase arrears collection and reduce future arrears, they estimated that only a quarter of the existing debt was collectible. In order to address existing arrears, the Urban Institute also recommended that California develop policies to leverage government-owed arrears to improve collections.

In 2003 California enacted AB 1752 (Chapter 252, Statutes of 2003) which contained a series of measures to enhance child support collections, one of which was a time-limited offer in compromise program for arrears owed as reimbursement for public assistance. DCSS developed a statewide compromise program (COAP) in two phases. Phase one included a manual process with a single lump sum payment for arrears-only cases. Phase two included an automated process allowing payments over time for arrears-only and current support cases. The goals of COAP were to reduce California's arrears balance, increase support collections for families and the state General Fund, and increase performance on the federal performance measures for current support and arrears collections.

As discussed in detail in the *COAP Program Results* section, COAP collections on government-owed arrears were approximately \$1.2 million for State Fiscal Year (SFY) 2003-04; \$3.4 million for SFY 2004-05; \$2.8 million for SFY 2005-06, and \$5.1 million for SFY 2006-07. Experience has shown that:

- there is a growing interest in COAP among NCPs as a result of outreach efforts
- approximately 50 percent of NCPs who apply are determined eligible for the program
- approximately 11 cents on each dollar of government-owed arrears is collected through the COAP program¹

During the development of COAP, DCSS examined compromise of arrears and amnesty programs in 13 other states.² However, none of the other states' child support programs were similar to California's program in design or complexity. The surveyed states operated compromise and amnesty programs on a pilot basis, instituted short-term compromise programs, or restricted their programs to only one or two counties or a single city. Only a few states were able to provide any data, all of which was estimated. Most states did not collect data on their compromise programs because the programs were too complex, the programs were too new for data to be compiled and tested for reliability, or arrears reduction was tracked only as part of the state's overall child support enforcement effort. Some programs focused on behavioral change in NCPs (such as mandated enrollment in work or parenting programs) rather than arrears collection and compromise on the interest that had accrued.

The focus of the DCSS compromise of arrears program is to collect on cases deemed uncollectible by offering the NCP a compromise in exchange for partial repayment of government-owed arrears, repayment of custodial party (CP) arrears, and in some cases remaining current on child support payments. Because of the requirement to pay current support, COAP realized the added benefit of improving current support collections. COAP was also designed to gather program data in order to evaluate and report on program performance.

¹ COAP June 2007 for SFY 06-07 Reports

² Alaska, Colorado, Connecticut, Iowa, Maryland, Massachusetts, Michigan, Minnesota, New Mexico, South Dakota, Texas, Vermont, and Wisconsin

DCSS implemented the first phase of COAP on January 5, 2004. This manual process allowed for a compromise of arrears in exchange for a single, lump sum payment in cases involving arrears only (i.e., the NCP owes no current support). Upon execution of the compromise agreement, the NCP had to be able to pay the required arrears repayment amount and any arrears required to be paid to the CP under the federal rules of distribution. Meanwhile, DCSS worked collaboratively with six LCSAs (Amador, Orange, San Diego, Santa Cruz/San Benito, Solano, and Sonoma) to develop and test a web-based system that would automate COAP processes. DCSS began piloting the COAP automated system on January 26, 2004.

LCSAs were supportive of the program's concept but expressed concerns about implementation of COAP as it was originally designed. To respond to these concerns, DCSS organized a workgroup comprised of DCSS staff, representatives from the COAP Pilot LCSAs and LCSAs working with the manual process. The workgroup convened in November 2004 to discuss areas for potential program redesign. LCSA experience confirmed that COAP was too labor-intensive for LCSA staff, too complex for COAP applicants, and the automated process could not be successfully implemented statewide without making changes. The workgroup produced a plan to redesign the program to simplify the process. Workgroup recommendations included the following changes to streamline the application and review processes:

- The original COAP application was replaced by the Judicial Council's Income and Expense Declaration, because that form is used for various other child support actions and NCPs are familiar with it.
- The supporting documentation requirements were modified to include three rather than twelve months of pay stubs and a copy of tax return(s) only if the NCP had filed taxes within the last two years.
- NCPs with multiple cases in a single county were allowed to make an offer in compromise by continuing the manual process even after the release of the automated system.
- NCPs who failed the application process the first time were allowed to reapply for an offer in compromise after one year rather than having to wait for two years.
- The NCP's primary vehicle was exempt from being counted as an asset unless its value was greater than \$30,000. This allowed LCSAs to review the applications more quickly when the NCP's only asset was a primary vehicle.
- DCSS implemented an incentive payment reduction (or increase in compromise amount) for NCPs who chose to make their repayment in a single lump sum.
- DCSS established a state level review standard of 10 business days to either approve acceptable offers in compromise or notify the LCSA of issues that had to

be resolved because they affected the determination of acceptable compromise and repayment amounts.

- After the COAP agreement was established, the payments were monitored and compromises given monthly to establish a regular feedback loop with the NCP and to assist the LCSAs in determining non-compliance with the COAP agreement.
- In May 2006, DCSS began piloting a change to COAP eligibility criteria to allow NCPs who owed less than \$5,000 in arrears to make an offer in compromise through the COAP manual process. The Reduced Minimum Pilot operated in seven LCSAs and resulted in 26 additional applications being submitted to DCSS from those LCSAs in SFY 2006/07.³

COAP was redesigned in the Spring of 2005. The pilot LCSAs tested the redesign and regional training was provided to the remainder of the LCSAs in June 2005. On July 1, 2005, the redesigned COAP and its automated process were released statewide. Automation allows NCPs with arrears only and current child support cases to make an offer in compromise that could be paid over a 36-month period. The manual process allows NCPs with multiple cases in one LCSA to make a lump-sum offer in compromise. Since July 2005, DCSS and the LCSAs have worked together to make COAP successful.

In October 2006, Elaine Sorenson of the Urban Institute presented her revision of California's arrears growth estimates. She reported that COAP and the other mandated strategies contained in AB 1752 had slowed the growth of California's arrears balance.

B. Program Operations

1. Outreach

LCSAs perform outreach to NCPs and work with them directly to provide the assistance necessary to complete the COAP application process. The LCSAs ensure that all required documentation is received from the NCP to determine that the eligibility requirements are met. In 2004, DCSS decided to pursue localized versus statewide outreach because of the complexity of the program's eligibility criteria and a desire to reduce NCP frustration at failing to qualify for a compromise. Initially, DCSS focused on assisting LCSAs to continually review child support cases for potential eligibility for compromise as part of their normal business activities and then refer the identified cases to specialized COAP teams within the LCSA for further review and outreach.

In 2006, DCSS began providing technical assistance to California Superior Court Family Law Facilitators. With increased understanding of program eligibility criteria,

³ Central Sierra Region (Alpine/Amador/Calaveras), Merced, Sacramento, San Mateo, Santa Cruz, Shasta, and Sonoma

the number of successful referrals from the courts increased. LCSAs are responsible for outreach utilizing various methods to ensure that each county's unique population is identified. DCSS and the LCSAs determined that outreach should be managed at the local level for LCSAs to be able to manage their resources and avoid a large number of applications from NCPs expecting compromises for which they were ineligible under COAP policy.

It should be noted that LCSAs using a broad method of outreach receive more applications that result in denials than LCSAs that prescreen their cases for eligibility prior to contacting NCPs. Broader outreach methods include placing flyers and signage announcing COAP in LCSA lobbies or having LCSA staff who are first point of contact hand out COAP information and applications. More focused outreach includes training all LCSA staff in COAP eligibility criteria and setting up a referral system for staff throughout the LCSA to send names and case numbers to a specialized team. The COAP team members are fully trained and review the information to determine the likelihood that an NCP will be eligible for COAP. Upon that determination, the COAP team member makes the initial contact with the NCP and completes further assessment over the phone before sending him or her an application packet.

To assist in outreach to NCPs with limited English, DCSS has translated all of the COAP forms into Spanish. These forms are available at the LCSAs. DCSS is also in the process of completing the translation of COAP forms into the remaining five threshold languages.⁴

In 2007, DCSS highlighted COAP on its public website with a series of COAP pages that provide programmatic information including the eligibility criteria. DCSS is working cooperatively with the LCSAs to monitor the effectiveness of web pages in generating appropriate referrals for offers in compromise. With technical assistance and experience, LCSAs are increasing the effectiveness of their outreach strategies. DCSS is also working with advocates and family law facilitators to identify and refer NCPs who are most likely to be eligible for COAP.

2. Eligibility

To be eligible for COAP, the NCP must meet the following criteria:

- The NCP owes the government at least \$5000 in arrears.
- It has been at least one year since the NCP last applied for a compromise of arrears.
- The NCP has not had a COAP agreement rescinded within in the last two years.
- The NCP has not been convicted or found in contempt of court for failure to pay child support within the last six months.

⁴ Armenian, Chinese, Hmong, Russian, and Vietnamese

- The NCP has not intentionally failed to pay child support in anticipation of a compromise.
- All of the NCP's child support cases are managed by one county.
- The NCP is unable to pay off all arrears owed within the next three years.
- The NCP is able to pay current support, arrears owed to the family, and the agreed upon repayment to the government in a three-year period from the date of the Agreement.
- The NCP has no concealed income, assets, or any reasonably anticipated income or assets, nor intentionally withheld or falsified financial information.

3. Application Process

Upon receipt of the application, the LCSA reviews the information submitted by the NCP for completeness and inclusion of all information necessary to make the appropriate eligibility determination. If the LCSA determines that a portion of the arrears is owed to the CP, the LCSA contacts the CP to discuss a voluntary compromise of the arrears. If the CP does not agree to the compromise, the CP arrears must be paid in full as part of the COAP agreement. After the application process is completed, the LCSA enters the NCP's verified information into either the automated system or the manual process workbook to determine the repayment and compromise amounts. COAP is statutorily required to collect the largest amount possible from the NCP in exchange for compromising arrears. The automated system and manual workbook utilize COAP policy to compare three options (the NCP offer, a minimum repayment, and a calculated repayment based upon the NCP's income and assets) and select the option that provides the most revenue to the state general fund.

After the arrears repayment and compromise amount are determined, the NCP is contacted to discuss the proposed repayment amount, including arrears that may be owed to the CP, and the NCP's ability to pay. If the NCP accepts the terms of the repayment, the LCSA will approve the application.

As allowed by current statute, DCSS delegates authority to LCSA directors or their designees to approve compromises under \$5,000. Compromises over \$5,000 are submitted to the DCSS for further review and approval.

4. The COAP Agreement

Once the application is approved, the LCSA prepares the *Agreement to Compromise Child Support* form. The LCSA reviews the agreement with the NCP to ensure all terms are understood. The NCP signs the agreement and submits the agreed upon initial or lump sum payment. The LCSA files the agreement with the court of appropriate jurisdiction. If the CP agrees to compromise any of his or her arrears, a copy of the CP stipulation is filed with the COAP agreement.

5. Continued Enforcement

The LCSA continues enforcement of the current support and arrears debt until fully paid or compromised under the agreement. All support collected through any enforcement action is credited toward the payments required under the compromise agreement. Enforcement includes wage withholding, liens, and tax refund intercepts. The LCSA may release any revoked license as part of the compromise agreement and/or discontinue other enforcement activities that do not directly collect funds. Continuous enforcement ensures that the NCP complies with the terms of the compromise agreement and that all collectible support is paid to the government and the family.

6. COAP Agreement Monitoring

The LCSA is responsible for monitoring NCP compliance with the COAP agreement and adjusting the case balances to reflect the compromise. If the NCP fails to comply with the terms of the agreement, or the LCSA later determines that the NCP concealed, withheld or falsified information, the agreement is rescinded. The LCSA provides written notification to the NCP and files a rescission notice with the court.

7. Technical Assistance and Oversight

As required by current statute and in an effort to ensure program integrity, cases with compromises over \$5,000 are reviewed and monitored for accuracy and compliance with all program requirements. The review also allows DCSS staff to evaluate the need for targeted technical assistance in specific LCSAs for performance improvement. DCSS further monitors LCSA performance by collecting and analyzing statistical information on applications submitted, approved, or denied; financial data related to compromise and repayment amounts; and collections on arrears. Monthly reports are prepared and shared with the LCSAs and other interested parties. Finally, DCSS periodically reviews LCSAs' denial of applications and approval of compromises less than \$5,000 to evaluate the need for targeted technical assistance to ensure that COAP is being administered uniformly throughout the state.

Using the information discussed above, DCSS COAP staff provide daily technical assistance by telephone to LCSA caseworkers and conduct regular onsite visits. Also, technical assistance may be requested directly by the LCSAs. Improving local COAP operations is viewed as a collaborative process with follow-up visits scheduled as necessary to train new staff and support existing staff with more difficult cases. The DCSS COAP staff has noted the positive impact of technical assistance efforts in the increased number and accuracy of applications submitted by the LCSAs involved.

DCSS also provides technical assistance to family law facilitators and advocate groups who often assist NCPs with completing applications for COAP. This is

designed to familiarize them with the eligibility requirements of COAP and ensure that they are able to adequately assist NCPs in putting together a complete application package.

C. COAP Program Results

DCSS examined a sample of 192 COAP cases and found that in 91 percent of the cases, NCPs applying for compromise had arrears that had been accruing for more than five years. (See Figure A) In addition, DCSS found that, of these NCPs, 48 percent had balances over \$20,000 and 32 percent had balances of \$10,000 to \$20,000. (See Figure B)

Figure A

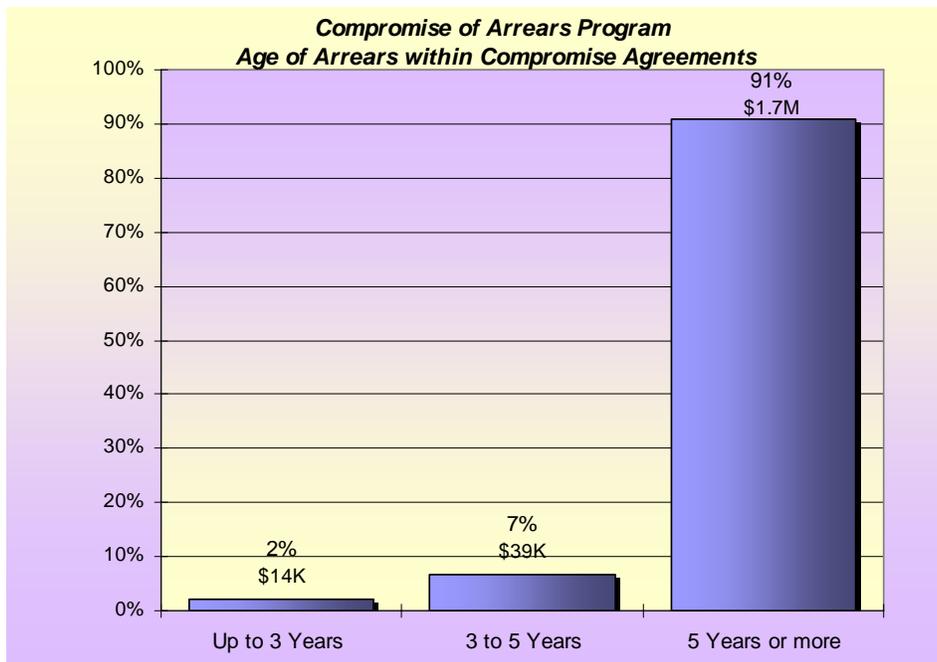
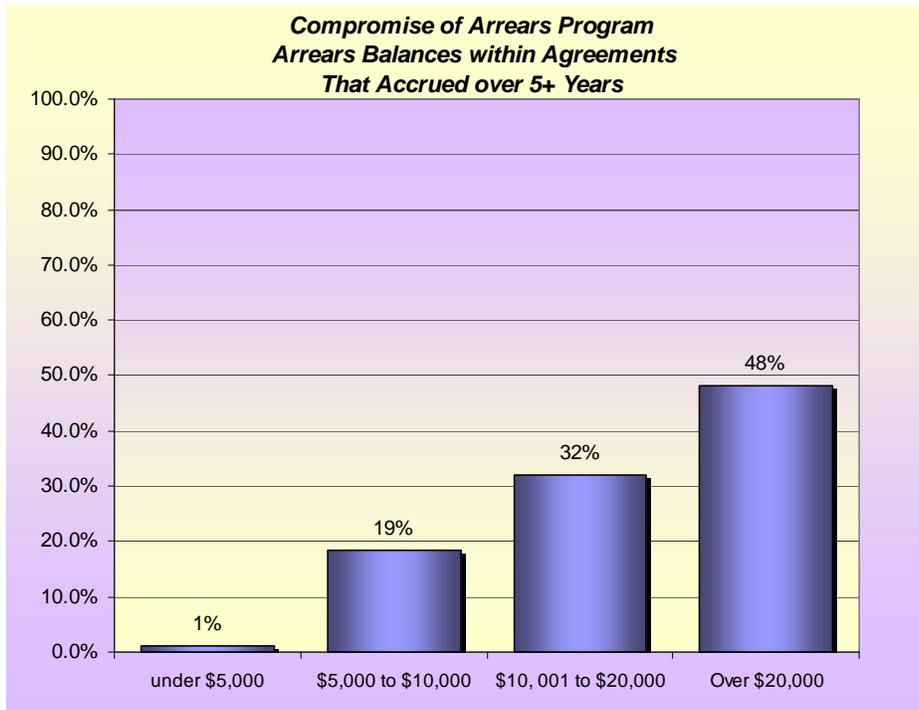
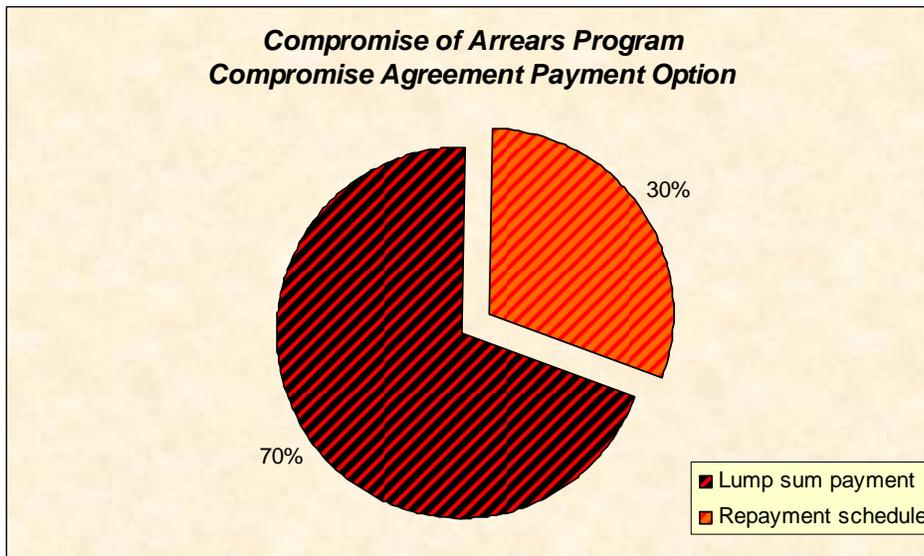


Figure B



In 70 percent of the cases reviewed, the government-owned arrears were completely eliminated through the agreed upon compromise and lump sum repayment. For the remaining agreements (30 percent), NCPs are making monthly payments on a schedule of up to three years. (See Figure C)

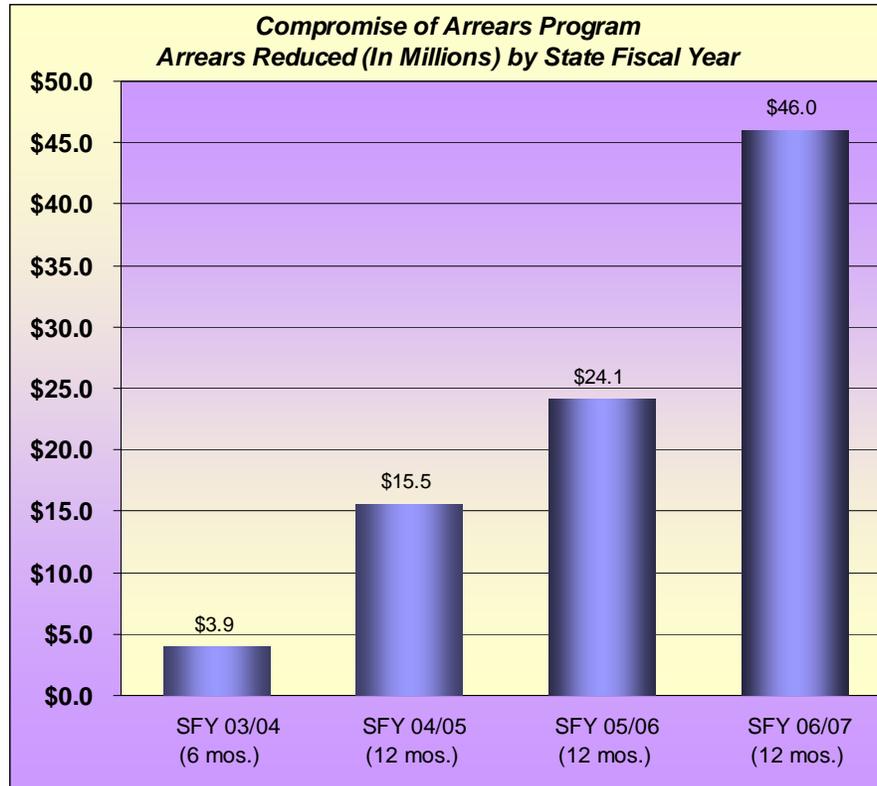
Figure C



COAP has shown consistent growth over the past three fiscal years. In its first six months of operation (SFY 2003-04), COAP resulted in approximately \$3.9 million in government-owned arrears settled. There was more than a four fold increase in

SFY 2004-05 when \$15.5 million in government-owed arrears were settled. SFY 2005-06 saw an increase to \$24.1 million and SFY 2006-07 saw continued growth with \$46 million in settled government-owed arrears. (See Figure D)

Figure D

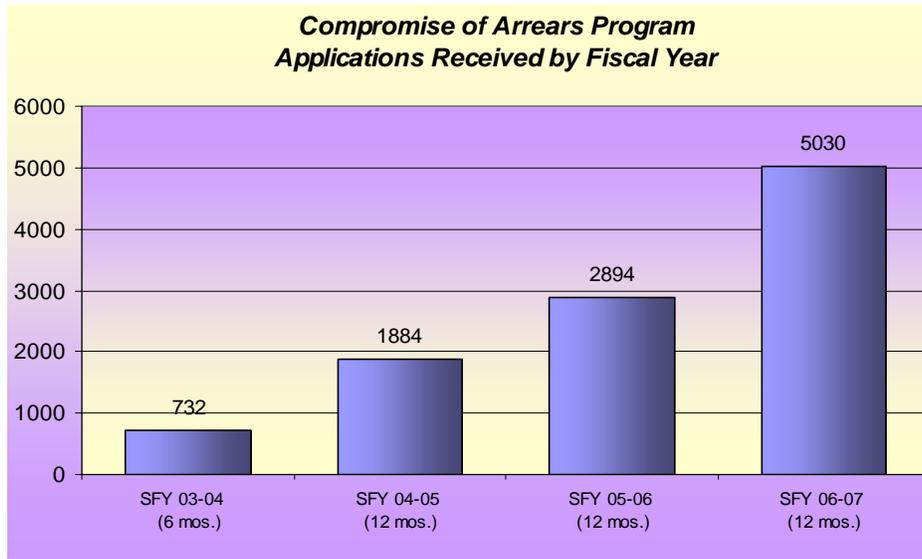


When provided an opportunity to resolve their debt, NCPs have not only come forward with offers in compromise but have also generally fulfilled the terms of their COAP agreements. Over the four years of operation, approximately 1% of the NCPs failed to meet their terms and had their COAP agreements rescinded. This success and the continued growth of the program indicates that COAP has proven to be an effective tool for reducing California's large arrears balance while improving collections and generating revenue for the state General Fund from what was once deemed uncollectible arrears.

1. Applications

There has been a steady increase in the number of applications received each year since the introduction of COAP in SFY 2003-04. For the six-month period beginning early January 2004 through June 30, 2004, 732 applications were received. Nearly 1,900 applications were received during SFY 2004-05. SFY 2005-06 applications increased to approximately 2,900. In SFY 2006-07 5,030 applications were received statewide. (See Figure E)

Figure E

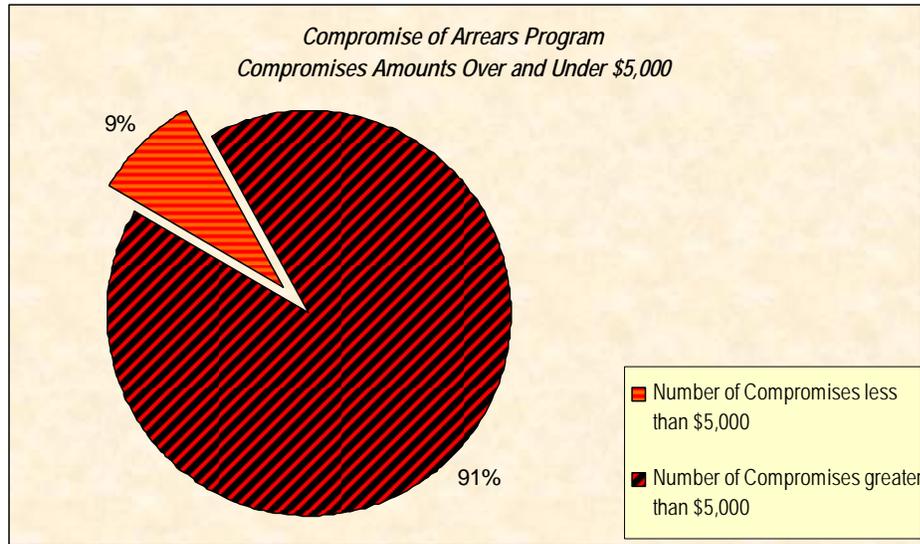


This continued increase in applications can be attributed to changes in program policy, ongoing technical assistance to LCSAs, and implementation of program automation.

In addition, the LCSAs' recognition of COAP as a viable collection tool has increased along with local outreach to NCPs. The feedback we've acquired via attorneys, advocates, LCSAs and NCPs, appears to indicate a greater knowledge of COAP and "word of mouth" advertisement within the NCP community is translating into an increase in interest and applications. Finally, DCSS staff has noticed that the increasing familiarity with COAP among advocates and family law facilitators has increased the number of application submitted each year.

Consistent with statutory requirements, DCSS reviews and approves all of the compromises over \$5,000, which account for about 90 percent of the COAP agreements statewide. (See Figure F) Less than 10 percent of COAP applications have compromises of government-owed arrears under \$5,000 and receive final approval at the local level. In addition, DCSS provides technical assistance to ensure that LCSAs operate COAP uniformly throughout the state. This uniformity provides NCPs the same opportunity to make an offer in compromise regardless of the county in which their child support cases are managed.

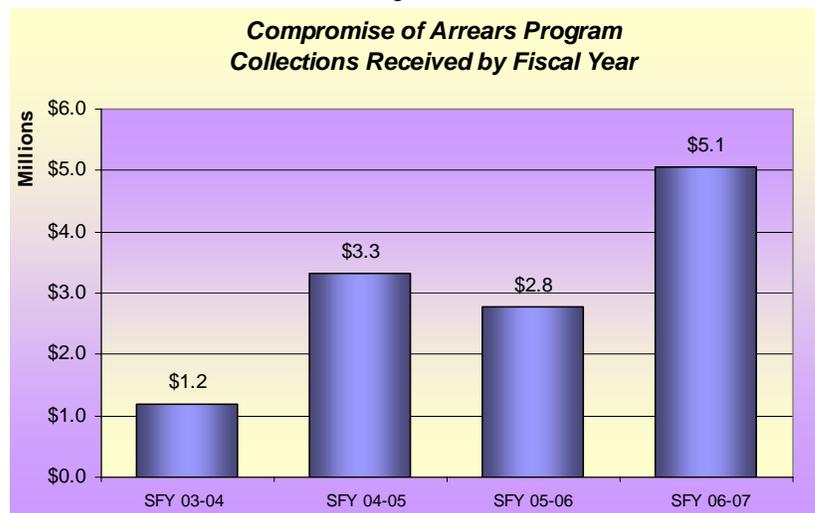
Figure F



2. Collections

Collections on compromise agreements received during the SFY 2003-04 were \$1.2 million in government-owed arrears. These collections represent a six-month period from the start of COAP in January through June 2004. In SFY 2004-05 collections increased to \$3.4 million. (See Figure G) This increase is attributed to a full year of program operation and familiarity with COAP in the LCSAs. In these first years, COAP was limited to cases with only arrears (no current child support) and the repayment had to be in a lump sum. In December of 2004 DCSS convened a COAP Redesign Workgroup of LCSA and State staffs that were familiar with COAP. The purpose was to identify areas of improvement that would make COAP more attractive to both the NCP community and LCSAs.

Figure G



DCSS introduced the improved COAP statewide in July 2005 after making several critical program changes. NCPs with cases including current support obligations were now allowed to participate. In addition a payment plan option was introduced allowing NCPs to spread their repayment out for up to three years. Another change was the implementation of an incentive payment reduction (or increase in compromise amount) for NCPs who chose to make their repayment in a single lump sum. Lastly, DCSS introduced a process that allows for more individualized application of deductions to income for NCPs.

Collections in SFY 2005-06 were \$2.8 million. This was a decrease in collections from SFY 2004-05 to SFY 2005-06 as a direct result of the program improvements instituted by DCSS. The incentive for lump sum repayments and the change in deductions reduced the repayment amount (increased the compromise amount) for NCPs. While the scheduling of repayments for up to three years spread the collections of those repayments over multiple fiscal years and reduced the collection in any single fiscal year. DCSS anticipated that an increased number of applications and successful offers in compromise would generate enough program growth to offset the reduction in repayment amounts, while the impact of payments over time would decrease as the program matured. This impact will become negligible in SFY 2008/09 when the repayment option has been in effect for three years. At that time, the collections for agreements spread out over SFY 2008/09, SFY 2009/10, and SFY 2010/11 will be offset by ongoing collections for agreements opened with payment plans in SFY 2005/06, SFY 2006/07, and SFY 2007/08.

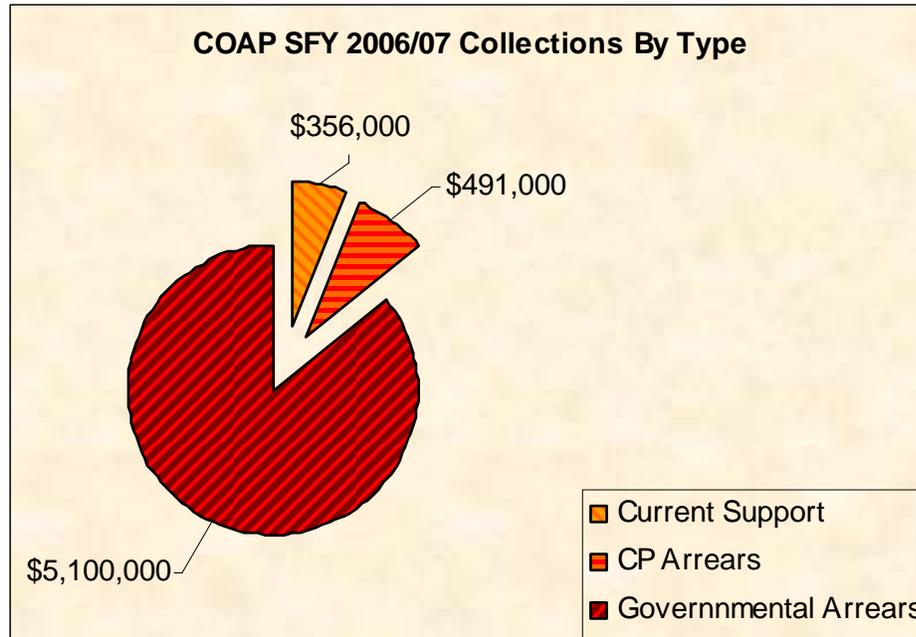
In SFY 06-07, \$5.1 million in arrears was collected through COAP surpassing all prior years. This year's collections showed an 82 percent growth in revenue generation over the prior year and a 55 percent growth in revenue generation over the past two years. DCSS believes that the increases in both applications and in revenue are due to multiple reasons. In addition to increased interest within the NCP community because of the improvements made in SFY 2005/06, DCSS has reached out to LCSAs with extensive technical assistance efforts. DCSS has also been involved in assisting Family Law Facilitators in improving their understanding of COAP and ability to assist NCPs in making offers in compromise. The knowledge that they have gleaned has enabled them to put forth not only more applications but ones that result in more compromises rather than denials.

The collections over the existence of COAP are summarized above in Figure G by SFY. However, as has been noted above COAP has undergone significant changes over time and a direct comparison in collections between years is not appropriate at this time.

In addition to the collection of government-owed arrears, which generates revenue for the state General Fund, DCSS collects funds for CPs as a direct result of COAP. These dollars are not included in the COAP fiscal reports, which are focused solely on collection of government-owed arrears. However, collections paid directly to CPs provide additional programmatic benefit. In SFY 2006/07, the COAP program

collected payments to CPs of approximately \$356,000 in current child support and \$491,000 in arrears. Adjusting for these collections, DCSS estimates all SFY 2006/07 COAP related child support collections at approximately \$5.9 million. Specific estimates by collection type are presented in Figure H and the table below.

Figure H



<u>Child Support Collections From COAP</u>			
Current Support	CP Arrears	Government-owed Arrears	Total Collections
\$356,000	\$491,000	\$5.1 Million	\$5.9 million

3. Program Costs

In the initial development of COAP, DCSS requested \$945,000 for local assistance using a methodology that considered the number of cases with arrears as identified by the original collectability study. The allocation was based on the following assumptions:

- Approximately 10,250 NCPs with uncollectible arrears would apply to LCSAs for an offer in compromise.
- Approximately 3,000 of these applicants would be assisted by other individuals and the LCSA review would take two hours per application.
- The remaining 7,250 applications would take approximately four hours per application.

- There would be a savings of 8,750 hours in activities that would have occurred during regular child support enforcement.
- LCSA caseworkers (paid at \$36 an hour) would process the applications.
- The LCSA supervisory and directorate level review of COAP applications would be part of existing administrative costs.

Local assistance funds were allocated based upon each LCSA's proportion of California's Permanently Assigned Arrears balance from Federal Fiscal Year 2003. After COAP was implemented in January 2004, the LCSAs informed DCSS that, although they had received significantly fewer applications than anticipated, the program required more staff resources than were supported by the COAP allocation. To address this issue, DCSS and the LCSAs worked collaboratively to redesign COAP with the specific goal of simplifying processes and reducing the amount of local staff time required to process a COAP application. This effort resulted in the redesign of the program discussed earlier in the Compromise of Arrears Program Background section. Both the LCSAs and DCSS anticipated that with redesign, smaller numbers of applications, and improved LCSA staff knowledge of COAP, the COAP local assistance budget would be adequate.

As DCSS and the LCSAs became more experienced with COAP during SFY 2005/06 and SFY 2006/07, the discussion concerning the adequacy of the COAP local assistance budget was reopened. Since the information from LCSAs was solely anecdotal, DCSS reviewed options for providing data-based information on local program costs. DCSS' intention was to use the data to design program improvements that would better align local costs to the existing allocation. During SFY 2006/07, DCSS began working with the Department of Finance Performance Review Unit (DOF-PRU) on an independent performance review of COAP. This review was seen as an opportunity to obtain the desired data on local program costs, as well as gain an independent assessment of possible performance improvements. At the request of DCSS, the Department of Finance Performance Review Unit (DOF-PRU) completed their review of COAP in the Summer of 2007 the results of which are shown in Section III below.

4. Cost Effectiveness

Another key element in evaluating COAP is cost effectiveness. DCSS collects and evaluates data on COAP related to cost effectiveness; however, due to federal funding, the cost effectiveness calculation varies for the State General Fund and for the program as a whole. Federal financial participation in the child support program is guided by one set of rules for expenditures in support of program activities and another set of rules for return of funds collected from NCPs as reimbursement for aid provided to their children. For federal funding in support of program activities, the State provides 34 cents of every dollar expended and the federal government provides the remaining 66 cents. For every dollar of government-owed arrears collected under COAP the state general fund receives 48 cents, the federal

government receives 46 cents and the county general funds receive the remaining 6 cents. For the purposes of this report, two calculations of cost effectiveness are presented: program costs compared with program collections as a whole, and the State share of COAP costs compared with the State share of COAP collections.

DCSS has calculated COAP's cost effectiveness by applying the funding and reimbursement distribution rules discussed above to the LCSA reported expenditures and adjusted collections amounts. The program's overall cost effectiveness ratio is \$1.55 in collections to every \$1 expended, as presented in the first table below. The State cost effectiveness ratio (based on the State share of collections and costs) is \$2.18 in collected child support for each \$1 of state general fund expended as presented in the second table.

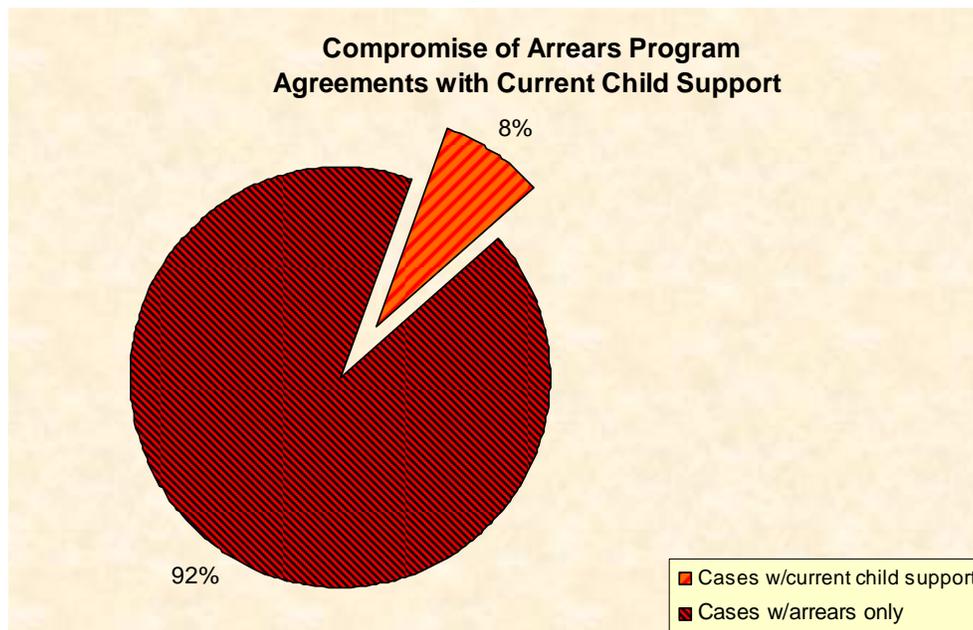
<u>COAP Cost Effectiveness Across All Funding Streams</u>		
COAP Collections \$5.9 Million	COAP Costs \$3.8 Million	Cost Effectiveness \$1.55 to every \$1 Invested

<u>COAP Cost Effectiveness State General Fund</u>		
State Share of Collections \$2.8 Million	State Share of Costs \$1.3 Million	State Cost Effectiveness \$2.18 to every \$1 Invested

5. Current Child Support

Although the majority of compromise agreements address arrears only, there is a small percentage of cases with a current child support order. (See Figure H) Because of COAP, NCPs who previously avoided paying child support have an incentive to meet their current support obligation because it is a condition of receiving the compromise of arrears. In order to receive the full compromise, NCPs are required to remain current on their current support obligations throughout the COAP repayment schedule. An NCP's failure to make timely current support payments results in a rescission of their compromise agreement and reinstatement of all compromised arrears, both principal and interest.

Figure H



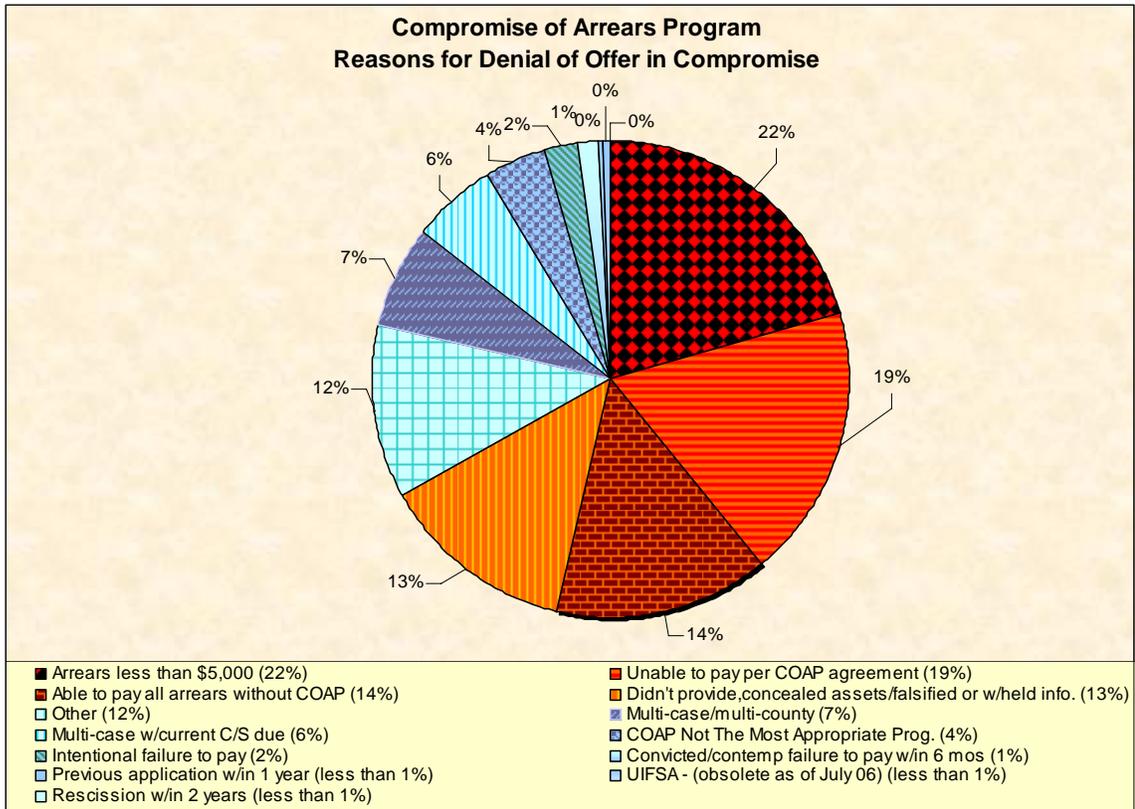
6. Denials

All NCPs have the opportunity to apply for COAP; however, there are a number of eligibility requirements (see page 8) that must be met before a compromise is approved. If the NCP fails to meet one or more of these eligibility requirements, the compromise will be denied by the LCSA.

An estimated 50 percent of offers in compromise are denied. Review of COAP program data reveals four main reasons for the denials: (See Figure I)

1. Arrears owed to the government are less than \$5000 (22%).
2. The NCP does not have the means to pay the required repayment amount as outlined in the COAP agreement (19%).
3. The NCP can afford to pay all the arrears they owe without a compromise (14%).
4. The NCP did not provide information necessary to complete the COAP application, concealed assets, falsified or withheld information (13%).
5. In addition to the four reasons above, approximately 12% of denials have been reported as "other" because the reason for denial was not included in the list of options available to LCSAs. Some examples of denials categorized as "other" are that the NCP died before the application process was completed, the child support case was closed, the CP was unwilling to compromise their arrears, the case was more appropriately resolved through family reunification compromise, the NCP withdrew the application, or the NCP never returned the COAP agreement.

Figure I



D. COAP National Impact

In October of 2007 the federal Department of Health and Human Services Office of Inspector General released a report, entitled, State Use of Debt Compromise to Reduce Child Support Arrearages.⁵ California was one of five states selected for in-depth study and recognized as the only state consistently monitoring compromise cases for compliance with the program's terms and conditions. The study found compromise of arrearages to be a successful strategy for reducing states' arrears balances and recommended that the federal Administration for Children and Families (ACF) issue specific guidance to assist states in establishing compromise programs. The ACF noted that the federal Office of Child Support Enforcement (OCSE) included arrearage compromise as a topic in child support enforcement conferences and teleconferences, posted arrearage compromise materials on an electronic workplace site where states can share documents, and will include arrearage compromise as a topic in a new Project to Avoid Increasing Delinquencies initiative referred to as "PAID."

In its most recent federal initiative to assist states in child support enforcement, OCSE is partnering with states on the PAID initiative. The purpose of the initiative is to

⁵ The report is available on the internet at <http://www.oig.hhs.gov/oei/reports/oei-06-06-00070.pdf>

identify and disseminate key strategies that improve current support collections and arrears management. To accomplish this, OCSE has established new workgroups on arrears stratification analysis, cell phone data standards, and unreported/unearned income.

DCSS will be participating in the PAID initiative’s workgroup on arrears stratification analysis. It is anticipated that California’s Collectibility Study, State Use of Debt Compromise Report, and results of COAP will be part of the workgroup’s analysis of arrears stratification. At OCSE’s request, DCSS has made presentations on COAP at national conferences and technology transfer events within Region IX. In each of these venues, California’s COAP has been highlighted as a national model for arrears management strategy.

III – Department of Finance Performance Review of COAP

Upon the request of DCSS, the Department of Finance Performance Review Unit (DOF-PRU) completed a performance review of COAP in the Summer of 2007. The results of the review were released to DCSS in November 2007. The review included an assessment of local program operation costs in comparison with the DCSS local assistance allocation. DOF-PRU visited six LCSAs representing approximately 40 percent of the statewide COAP activity and gathered information on local costs. Collectively, the LCSAs reported that local expenditures for COAP are approximately 300 percent of the amount of local assistance allocated for COAP activities. The specific findings are presented in the table below.

<u>DOF-PRU Local Operating Cost Findings for Six LCSAs</u>		
Local COAP Operating Cost	LCSA COAP Allocation	LCSA In-Kind Contribution
\$1,293,000	\$413,000	\$880,000

Using the data provided by DOF-PRU, DCSS applied the local cost of operation to the 2,068 applications received by each LCSA during SFY 2006/07 and determined an estimated \$637 per application local operations cost. Finally applying the \$637 average cost to the 5,030 applications received statewide in SFY 2006/07, DCSS estimated total local operations cost at approximately \$3.2 million. Finally, DCSS added the approximately \$600,000 of state operations costs and determined a total program cost of approximately \$3.8 million.

The review also included an overall finding that COAP should be continued beyond June 30, 2008, and a general recommendation that DCSS work collaboratively with the LCSAs to address statutory requirements and identify current departmental policy that decreases overall program cost efficiency. The review included the following detailed recommendations for improving COAP.

1. Change statute to give LCSAs the authority to approve all compromises.

2. Expand the DCSS role in monitoring LCSA compliance with COAP policy to ensure statewide program consistency.
3. Release COAP performance reports in a more timely fashion.
4. Determine whether the COAP Reduced Minimum Pilot should be discontinued or implemented statewide.
5. Expand COAP eligibility requirements to include NCPs with multiple cases in multiple LCSAs.
6. Simplify the COAP application and supporting document requirements.
7. Provide the COAP application in multiple languages.
8. Identify LCSA recommendations to improve the COAP automated system and where feasible alter the system.

The DOF-PRU found consensus among the LCSAs that COAP is a valuable child support collection tool that allows the LCSAs to make collections on old child support cases. DCSS is evaluating the DOF-PRU report with the dual objectives of maximizing collections and reducing program costs through process efficiencies. By pursuing these dual objectives, DCSS hopes to streamline programmatic requirements and increase the program's cost effectiveness. As an immediate step, DCSS is considering program improvements for implementation in SFY 2007/08, such as working with the LCSAs to develop an Offer in Compromise Workgroup, providing COAP forms in critical languages, reviewing the effectiveness of the COAP Reduced Minimum Pilot, and putting processes in place to ensure COAP Reports are released timely.

IV – Recommendation for COAP's Future: Two Year Extension

DCSS recommends extending the sunset date for COAP to July 1, 2010. This recommendation is based on the fact that after four years of operation, COAP has proven to be an effective tool for increasing revenue to the state general fund by facilitating the collection of child support payments on cases previously viewed as uncollectible. The program has demonstrated its usefulness to local child support agencies for managing child support arrearages, encouraging cooperation of noncustodial parents who have large child support arrears balances, and encouraging parents to stay current with their child support obligations.

Although COAP has been effective in generating child support collections, there is consensus among DCSS and LCSAs that program improvements could increase cost efficiencies, while continuing to serve the interest of the State. LCSAs, child support advocates, judicial stakeholders, and noncustodial parents support the program's continued operation. A two-year extension of COAP would allow DCSS to assess further refinements and focus on increasing the program's flexibility, cost-effectiveness, and revenue generating capabilities. DCSS will evaluate the program's eligibility and rescission criteria to maximize NCP participation in COAP. In addition, DCSS will continue to evaluate the DOF-PRU recommendations for making the program more efficient.

Improvements at the State and local levels will ensure that more of the older cases with large government-owed arrears balances can be resolved and closed, which will allow local child support agencies to focus resources on current child support cases and collections for families. A two-year extension will provide DCSS with the opportunity to ensure that the COAP program continues to meet the needs of local child support agencies and child support customers, and provides optimal collection capability for California's child support program and the state general fund.

Appendix A

Proposed Statutory Language

AMENDMENT TO
CALIFORNIA CODES
FAMILY CODE
SECTION 17560

TRAILER BILL LANGUAGE - AMENDING FAMILY CODE 17560
Family Code Section 17560 is amended to read as follows:

17560. (a) The department shall establish and operate a statewide compromise of arrears program pursuant to which the department may accept offers in compromise of child support arrears and interest accrued thereon owed to the state for reimbursement of aid paid pursuant to Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code. The program shall operate uniformly across California and shall take into consideration the needs of the children subject to the child support order and the obligor's ability to pay.

(b) If the obligor owes current child support, the offer in compromise shall require the obligor to be in compliance with the current support order for a set period of time before any arrears and interest accrued thereon may be compromised.

(c) Absent a finding of good cause or a determination by the director that it is in the best interest of the state to do otherwise, any offer in compromise entered into pursuant to this section shall be rescinded, all compromised liabilities shall be reestablished notwithstanding any statute of limitations that otherwise may be applicable, and no portion of the amount offered in compromise may be refunded, if either of the following occurs:

(1) The department or local child support agency determines that the obligor did any of the following acts regarding the offer in compromise:

(A) Concealed from the department or local child support agency any income, assets, or other property belonging to the obligor or any reasonably anticipated receipt of income, assets, or other property.

(B) Intentionally received, withheld, destroyed, mutilated, or falsified any information, document, or record, or intentionally made any false statement, relating to the financial conditions of the obligor.

(2) The obligor fails to comply with any of the terms and conditions of the offer in compromise.

(d) Pursuant to subdivision (k) of Section 17406, in no event may the administrator, director, or director's designee within the department, accept an offer in compromise of any child support arrears owed directly to the custodial party unless that party consents to the offer in compromise in writing and participates in the agreement. Prior to giving consent, the custodial party shall be provided with a clear written explanation of the rights with respect to child support arrears owed to the custodial party and the compromise thereof.

(e) Subject to the requirements of this section, the director may delegate to the administrator of a local child support agency the authority to compromise an amount of child support arrears up to an amount determined by the director to support an effective administration of the offers in compromise program.

(f) For an amount to be compromised under this section, the following conditions shall exist:

(1) (A) The administrator, director or director's designee within the department determines that acceptance of an offer in compromise is in the best interest of the state and that the compromise amount equals or exceeds what the state can expect to collect for reimbursement of aid paid pursuant to Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code in the absence of the compromise, based on the obligor's ability to pay.

(B) Acceptance of an offer in compromise shall be deemed to be in the best interest of the state, absent a finding of good cause to the contrary, with regard to arrears that accrued as a result of a decrease in income when an obligor was a reservist or member of the National Guard, was activated to United States military service, and failed to modify the support order to reflect the reduction in income. Good cause to find that the compromise is not in the best interest of the state shall include circumstances in which the service member's failure to seek, or delay in seeking, the modification were not reasonable under the circumstances faced by the service member. The director, no later than 90 days after the effective date of the act adding this subparagraph, shall establish rules that compromise, at a minimum, the amount of support that would not have accrued had the order been modified to reflect the reduced income earned during the period of active military service.

(2) Any other terms and conditions that the director establishes that may include, but may not be limited to, paying current support in a timely manner, making lump-sum payments, and paying arrears in exchange for compromise of interest owed.

(3) The obligor shall provide evidence of income and assets, including, but not limited to, wage stubs, tax returns, and bank statements, as necessary to establish the following:

(A) That the amount set forth in the offer in compromise of arrears owed is the most that can be expected to be paid or collected from the obligor's present assets or income.

(B) That the obligor does not have reasonable prospects of acquiring increased income or assets that would enable the obligor to satisfy a greater amount of the child support arrears than the amount offered, within a reasonable period of time.

(C) That the obligor has not withheld payment of child support in anticipation of the offers in compromise program.

(g) A determination by the administrator, director or the director's designee within the department that it would not be in the best interest of the state to accept or rescind an offer in compromise in satisfaction of child support arrears shall be final and not subject to the provisions of Chapter 5 (commencing with Section 17800) of Division 17, or subject to judicial review.

(h) Any offer in compromise entered into pursuant to this section shall be filed with the appropriate court. The local child support agency shall notify the court if the compromise is rescinded pursuant to subdivision (c).

(i) Any compromise of child support arrears pursuant to this section shall maximize to the greatest extent possible the state's share of the federal performance incentives paid

pursuant to the Child Support Performance and Incentive Act of 1998 and shall comply with federal law.

(j) The department shall ensure uniform application of this section across the state.

(k) This section shall remain in effect only until July 1, 2010, and as of that date is repealed unless a later enacted statute, that is enacted before July 1, 2010, deletes or extends that date. A local child support agency shall honor repayment schedules for the compromise program beyond June 30, 2010, in order to allow for successful completion of the compromise agreements.