

December 18, 2019

Wade Crowfoot, Secretary
California Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

Dear Mr. Wade Crowfoot,

In accordance with the State Leadership Accountability Act (Leadership Accountability), the Energy Resources Conservation and Development Commission submits this report on the review of our internal control and monitoring systems for the biennial period ending December 31, 2019.

Should you have any questions please contact Courtney Smith, Chief Deputy Director, at (916) 654-4906, courtney.smith@energy.ca.gov.

GOVERNANCE

Mission and Strategic Plan

The Energy Resources Conservation and Development Commission (CEC) is the state's primary energy policy and planning agency. Located within the California Natural Resources Agency (CNRA), the Energy Commission is headed by five commissioners appointed by the Governor and confirmed by the Senate. The executive director, who reports to the Chair of the Commission, oversees the budget and staff of the agency. The Energy Commission currently has 728.6 authorized positions.

Seven core responsibilities guide the Energy Commission as it sets California energy policy:

- Forecasting future energy needs;
- Promoting energy efficiency and conservation by setting the state's appliance and building energy efficiency standards;
- Supporting energy research that advances energy science and technology through research, development, and demonstration projects;
- Developing renewable energy resources;
- Advancing alternative and renewable transportation fuels and technologies;
- Certifying thermal power plants 50 megawatts and larger;
- Planning for and directing state response to energy emergencies.

The Energy Commission's strategic goals and objectives are outlined in our Strategic Plan, available at: https://www.energy.ca.gov/sites/default/files/2019-11/2014-06_California_Energy_Commission_Strategic_Plan.pdf

Control Environment

The CEC has established an organizational structure, processes, and procedures to monitor agency activities, address vulnerabilities, and ensure regular and transparent communication. These internal controls provide reasonable assurance the Energy Commission will achieve its objectives and mission.

A commission comprised of five commissioners appointed by the Governor and confirmed by the Legislature helps provide oversight of the agency. The organization is led by the Executive Director, who is positioned at the top of an organization structure that is generally hierarchical and helps establish appropriate levels of responsibility and authority. The Executive Director and his management team monitors agency activities through a variety of mechanisms, including one-on-one meetings; a chain-of-command formal review process for work products, grant/contract agreements, programmatic decisions, and internal and external communications; and a robust annual work plan development and approval process. The agency's internal control system and processes were documented in a June 7, 2018 memorandum to the executive leadership team. In addition, the agency has documented and the commission has approved grant management decision-making authority levels. Lastly, internal review and approval forms assist in documenting critical control systems and helping ensure compliance.

The Executive Director has established the core values of service, excellence, and accountability for all employees, including management; these are incorporated into the agency's employee expectations and employee recognition programs. The agency strives to recruit and maintain a competent workforce through consistent and appropriate hiring practices and through workforce management strategies that include performance evaluation and accountability. To facilitate this, a biweekly meeting of executive leadership is held to develop and implement appropriate and consistent workforce management practices. Each February, the agency conducts an employee performance evaluation process; compliance with this process is tracked by the personnel office and the executive office to ensure evaluations are completed for all employees possible.

Information and Communication

The CEC's process for ensuring information needed for operational, programmatic, and financial decision-making is relevant and reliable relies on information being reviewed and approved through an established and documented review process.

Meetings and other communications conducted to ensure policies, procedures, and program activities are communicated throughout the agency include:

- The Executive Policy Group meets weekly to brief the Executive Office on upcoming external meetings and significant program activities. Attendees include Division Directors, Assistant Executive Directors, Executive Office, Chief Counsel's Office, and representatives of Commissioners' Offices. Cross-division activities that present potential conflicts or vulnerabilities are discussed.
- The Executive Office conducts a weekly meeting with Deputy Directors to communicate programmatic updates across the divisions, address and coordinate administrative activities, and identify the need for and implement new internal control systems.
- A biweekly meeting held with Deputy Directors and appropriate Assistant Executive Directors focuses on developing and improving policies and procedures associated with hiring, recruitment, retention, and staffing. This issue was identified by Commission management as a key risk as part of the 2018 State Leadership Accountability Act Risk Assessment process.
- Communication to staff of agency policies, procedures, and events is accomplished through a variety of mechanisms, including using management communication down the organizational structure, "all-hands" correspondence, as appropriate, divisional brown bag meetings, and a

- monthly newsletter.
- Communication with Commissioners to communicate program updates and to receive policy direction includes monthly Lead Commissioner meetings as well as the provision of briefings on Business Meeting items and on critical issues as they arise.
 - Communication with the California Natural Resources Agency (CNRA) regarding emerging critical issues and ongoing programmatic activities is conducted through the submission of a biweekly report; a monthly Chief Deputy Director meeting, regular meetings with the CNRA Secretary and Chair and Executive Director of the CEC; as well as the provision of communications and briefings on critical issues as they arise. In addition, for critical informational items or for items that require CNRA approval, a significant issues report is prepared and submitted by the Energy Commission's lead staff to CNRA.
 - Communication with the Governor's Office includes regular weekly meetings with the Executive Director and the Chair, email correspondence as appropriate, and the preparation and submittal of Governor's Office action requests for action and informational items.

These communication protocols are documented in a June 7, 2018 memorandum to all members of the executive leadership team.

Written communication with external stakeholders is accomplished through stakeholder listserv email notifications and updates to our websites, which are generated by program staff and go through a consistent and documented internal review process. The CEC also communicates with the public using public workshops and meetings, which are formally noticed and adhere to all requirements associated with the Open Meeting Act. In addition, all documents associated with formal proceedings that result in policy or programmatic development and modifications are required to be posted into a publicly accessible docket.

Employees are able to report inefficiencies and inappropriate actions to management and other decision makers by raising it to their direct supervisor for consideration and possible elevation through the chain of command. If the direct supervisor is involved, the employee may go up the chain one level to report the action. Depending on the nature of the inappropriate actions, the employee may also report issues to the agency's Equal Employment Opportunity Officer. Lastly, the agency has an anonymous, electronic suggestion box read only by the Executive Director and executive leadership team members that can also be used to report inefficiencies and inappropriate actions.

MONITORING

The information included here discusses the entity-wide, continuous process to ensure internal control systems are working as intended. The role of the executive monitoring sponsor includes facilitating and verifying that the Energy Resources Conservation and Development Commission monitoring practices are implemented and functioning. The responsibilities as the executive monitoring sponsor(s) have been given to: Drew Bohan, Executive Director; and Courtney Smith, Chief Deputy Director.

An important part of the CEC's monitoring activities is the auditing activities performed by the agency's Audits, Investigations, and Program Review (AIPR) unit, headed by the Chief Auditor. The AIPR team provides independent and objective assurance and consulting services designed to contribute to the effectiveness and efficiency of the California Energy Commission's governance, risk management, and control processes.

Each year, AIPR staff along with the Chief Auditor perform a risk assessment of the activities and business processes of the CEC. Based on the results of the risk assessment, the Chief Auditor will prepare an annual audit plan, which identifies the audit assignments that will be conducted for the upcoming fiscal year. This plan is reviewed and approved by the agency's Audit Committee, which consists of two commissioners. Once an audit is complete, an audit resolution process, which is documented, is carried out to ensure appropriate actions are identified and implemented by relevant program management to address audit findings. If AIPR determines the actions proposed by program management represent a significant risk to the California Energy Commission, the Chief Auditor will communicate the risk to the Executive Office and/or the Audit Committee.

In addition, the Executive Office monitors agency activities through a variety of mechanisms. Each Deputy Director, each Assistant Executive Director, the Public Adviser, and the Chief Counsel has routine one-on-one meetings with the Executive Office to discuss critical items, program updates, and personnel issues.

Agency-wide monitoring and review of work products, out-of-state travel and conference requests, grant/contract agreements and amendments, and external and public communications are conducted through a standardized, routed review. This approval process includes, as appropriate, our Contracts, Grants, and Loans Office; Chief Counsel's Office; Media and Public Communications Office; Office of Governmental Affairs; Executive Office; and Commissioners' Offices. Standardized routing forms are available on the Commission's intranet page. These approval processes identify and address vulnerabilities and risks associated with agency action.

The main processes directed at addressing vulnerabilities identified through monitoring are documented in an agency memo dated June 7, 2018.

Before the beginning of each fiscal year, a robust work plan process is used across all divisions and several small offices to identify next year's programmatic priorities, analyze anticipated resource needs, identify strategies to address imbalances between resource availability and needs, and receive approval from Executive Office and Commissioners on workload and resource requests. This work plan directs the next fiscal year's contract funds requests and student and retired annuitant requests, and informs ongoing staff resource allocations.

RISK ASSESSMENT PROCESS

The following personnel were involved in the Energy Resources Conservation and Development Commission risk assessment process: executive management, middle management, and front line management.

The following methods were used to identify risks: brainstorming meetings, ongoing monitoring activities, and other/prior risk assessments.

The following criteria were used to rank risks: likelihood of occurrence, potential impact to mission/goals/objectives, timing of potential event, potential impact of remediation efforts, and tolerance level for the type of risk.

RISKS AND CONTROLS

Risk: Key Person Dependencies

The CEC performs highly technical work that often requires specialized skill sets. In several key programmatic areas, there are key staff dependencies where only one person has the historic or technical knowledge needed to perform a critical function. In addition, many supervisors and managers are also key person dependencies—ones that are often difficult to fill with a qualified candidate. Exacerbating this risk is the rate of retirements expected in the next five years. Approximately 28% of the agency's workforce is of retirement age (55 or older). The root cause for this event is an increase in retirement rates.

Control: Workforce Development

Workforce development, including mentorship and strategic workload assignments, can help mitigate this risk by creating opportunities to expand historic and/or technical knowledge associated with performing a critical function beyond one staff person.

To date, informal mentorship and workforce planning has occurred within specific programmatic areas. For instance, junior staff have been assigned to work on a critical function with a key dependency to diversify staff knowledge. These efforts have not been conducted agency wide.

In April 2019, the CEC hired a Recruitment and Outreach Coordinator whose duties include providing oversight over recruitment, retention, workforce planning, and succession planning.

In 2020, this coordinator will establish a formal mentoring pilot program to facilitate staff development and address specific key dependencies. In addition, the CEC will conduct a survey of all known key dependencies across the agency and work with managers to identify appropriate work assignments to diversity staff knowledge and experience.

Risk: Recruitment/Retention

A variety of factors has contributed to difficulties in the CEC recruiting and retaining quality staff. The CEC lacks pay parity with other key state energy agencies, mainly the California Public Utilities Commission. As a result, many staff leave the commission for higher compensation elsewhere. In addition, recruiting a robust and diverse applicant pool has been challenging, resulting in: drawing out or repeating hiring processes; leaving key positions vacant in the absence of a qualifying candidate; and not completing work within deadline/timeframe due to a lack of sufficient resources.

Control: Recruitment Activities

To help address this risk, in April 2019, the CEC hired a Recruitment and Outreach Coordinator whose duties include providing oversight over recruitment, retention, workforce planning, and succession planning. In 2019, the coordinator initiated several new recruitment practices aimed at bolstering the CEC's student-to-staff pipeline and growing applicant pools. Activities that have been implemented in 2019 include: developed a unified student employee program to maximize the student-staff pipeline; developed a student orientation event to assist current student employees in navigating the state hiring process; improved career information page on the agency

website; developed marketing materials and a career ambassador program to better communicate agency mission and career benefits; utilized LinkedIn, other social media sites, and recruitment forums to advertise key positions; and established the coordinator as an ombudsman for candidates to assist them with navigating the hiring process.

In 2020, the coordinator will develop a workplan to identify additional activities to advance recruitment and retention at the CEC.

Control: Retention Activities

In April 2019, the CEC hired a Recruitment and Outreach Coordinator whose duties include providing oversight over recruitment, retention, workforce planning, and succession planning.

In 2019, an exit survey was implemented to gather data on the factors that contribute to employees leaving the CEC. In 2020, the CEC will conduct an employee engagement survey to obtain additional information on opportunities to improve staff retention. Based on both the exit surveys and the employee engagement survey, the coordinator will develop a workplan to identify additional activities to advance recruitment and retention at the CEC.

Control: Pay Parity Request

A critical obstacle to creating and maintaining a workforce that can fulfill the agency's mission is a lack of pay parity with the state's other main energy agency, the California Public Utilities Commission (CPUC). To address this substantial disadvantage, in December 2019, the CEC submitted a "harvest memo" to CalHR requesting that, as part of the labor negotiation process, key CEC classifications achieve pay parity with similar classifications at the CPUC. This request also includes salaries for managerial positions, which are not covered by labor negotiations, but can be adjusted through a CalHR process.

In 2020, the CEC will continue to engage CalHR in this process.

Risk: Structural Deficit

One of the CEC's main funding accounts, the Energy Resources Programs Account, remains in a structural deficit. ERPA is in a structural deficit that has overspent revenues by more than \$9 million since fiscal year 2014-15. Despite taking aggressive action to reduce the deficit, the funding gap is projected to be \$7.5 million in 2019-20. The structural deficit results from the CEC's growing role in implementing aggressive climate change policies that reduce electricity consumption thereby reducing ERPA revenues.

Control: Budgetary Action

The CEC has taken aggressive action to reduce the ERPA structural deficit by more than \$37 million over three budget cycles (fiscal years 2017-18 to 2019-20) by reducing costs, increasing revenue, and aligning activities with appropriate fund sources. However, increased expenses and decreased revenue countered these reductions.

The *Supplemental Report of the 2019-20 Budget Act* requires that no later than April 1, 2020, the Energy Commission, in consultation with the Department of Finance, submit to the fiscal

committees of both houses and the Legislative Analyst's Office a report that provides options to address ERPA's structural deficit. The purpose of the report is to develop a plan to bring ERPA revenues and expenditures fully into balance by June 30, 2022. The Energy Commission will release the report by the April 1, 2020 deadline.

CONCLUSION

The Energy Resources Conservation and Development Commission strives to reduce the risks inherent in our work and accepts the responsibility to continuously improve by addressing newly recognized risks and revising risk mitigation strategies as appropriate. I certify our internal control and monitoring systems are adequate to identify and address current and potential risks facing the organization.

Drew Bohan, Executive Director

CC: California Legislature [Senate (2), Assembly (1)]
California State Auditor
California State Library
California State Controller
Director of California Department of Finance
Secretary of California Government Operations Agency