FEDERAL ECONOMIC RECOVERY PROGRAM

AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

PROGRAM SUPPORT SERVICES

Preliminary Macro-Level Readiness Assessment of the California Energy Commission

Prepared For:
California Energy Commission

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JULY 23, 2010

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Mr. Mark Hutchison
California Energy Commission
1516 Ninth Street, MS-39
Sacramento, California 95814

Regarding: **Preliminary Macro-Level Readiness Assessment of the California Energy Commission – Facilitated Self-Assessment**

Dear Mr. Hutchison:

Perry-Smith LLP (Perry-Smith) is pleased to present this report documenting a preliminary, macro-level readiness, facilitated self-assessment, of the California Energy Commission (Energy Commission) to receive and manage American Recovery and Reinvestment Act of 2009 (ARRA) funds, and to manage and monitor the energy projects funded by ARRA. This report is the result of individual interviews conducted from June 22 through July 21, 2010, with selected Commission managers responsible for administering ARRA funds, developing agreements with subrecipients, and managing subrecipient projects.

The Preliminary Macro-Level Readiness Facilitated Self-Assessment of the California Energy Commission is attached to this letter as **Attachment A**. The information presented in Attachment A represents Commission management views, and has not been subject to independent testing.

1. Background

The American Recovery and Reinvestment Act of 2009 funding includes unprecedented provisions mandating transparency and accountability, which are intended to prevent, detect, and eliminate fraud, waste, and abuse. The Energy Commission faces significant challenges to administer and monitor its allocation of ARRA funds, while also managing other existing energy programs, some of which received significant increases in new funding for fiscal year 2009/10 over amounts available in prior fiscal years.

In 2009, the Commission received $314.4 million of ARRA funding for energy efficiency and renewable energy programs. The Commission is administering four (4) major ARRA programs, as follows:

- State Energy Program (SEP: $226.0 million)
- Energy Efficiency Conservation Block Grants (EECBG: $49.6 million)
- State Energy Efficient Appliance Rebate Program (SEEARP: $35.2 million)
- Energy Assurance Planning Program (EAPP: $3.6 million).

The California Department of General Services approved the program support services contract between the Energy Commission and Perry-Smith on May 13, 2010. This contract defines a number of tasks and deliverables. Task 1 of the contract includes assistance in identifying the Commission's organizational readiness to administer and manage ARRA funds, and to review and make recommendations to improve the Commission's processes, procedures, and internal controls to enhance delivery of ARRA funds.

The Energy Commission assigns work to Perry-Smith through approval of individual deliverable expectation documents (DEDs). The Commission approved DED number 5.1 to conduct a Commission organization readiness assessment. The primary objectives of DED 5.1 are to:

- Determine whether Energy Commission's processes, procedures, and internal controls are effectively: (1) monitoring compliance requirements for subrecipients using ARRA funds, and (2) mitigating and minimizing potential risks of fraud, waste, and abuse, based upon requirements for transparency and accountability set forth in the ARRA
- Identify risks and assess mitigating factors associated with identified risks, including the likelihood that the risk might occur and the potential impact of not mitigating the identified risk
- Identify recommendations to enhance the effectiveness of existing policies, written procedures, processes, systems, and internal controls to ensure compliance with ARRA requirements
- Develop a plan to implement the recommendations.

An initial deliverable from DED 5.1 is this preliminary, macro-level organizational readiness assessment. This facilitated self-assessment was based on interviews conducted with selected administrative and program managers, and the review of selected background documents on a number of subjects, including the Energy Commission's annual budget, year -to-date expenditures of ARRA funds, and budget change proposals for ARRA-funded authorized positions.

2. Scope and Approach

To prepare a preliminary, macro-level, facilitated self-assessment of readiness, the project team prepared a readiness assessment guide, organized by risk consideration categories defined by the Office of Management and Budget (OMB) ARRA guidance document (M-09-15, April 3, 2009). Interviews were then held with ten (10) managers from the Commission's newly formed Administrative and Financial Management Services Division, between June 22 and June 30, 2010.

Interviews were also held with thirteen (13) ARRA program managers from various Energy Commission divisions. These thirteen (13) program managers are among the forty-four (44) program managers responsible for managing ARRA-funded projects. These interviews took place between June 23 and 30, 2010. Additional interviews were held in mid-July to clarify some assessments and findings.

Management representations from the interviews are summarized in Attachment A. These accompanying representations of management, shown in Attachment A, have not been subject to independent testing. Independent testing of management representations will be performed as Perry-Smith completes DED 5.1. This work will take place from July 1 through September 30, 2010. The remaining work effort will produce a final deliverable documenting:

- An organizational readiness and diagnostic assessment of Energy Commission processes, procedures, and internal controls
- Recommendations to strengthen existing policies, written procedures, processes, systems, and internal controls to ensure compliance with ARRA requirements
- A plan to implement recommendations.

Also, Perry-Smith will provide project management training to ARRA managers commencing in August 2010, and continuing, as required, throughout the duration of the ARRA project.

3. General Findings

Several general findings emerged from the self-assessment interviews. These findings, which are presented in the paragraphs that follow, impact the Energy Commission's readiness, but are not limited to just ARRA-related requirements.

a. Energy Commission workloads, staffing demands, and project management effectiveness are significantly impacted due to a four-fold increase in the Commission's annual budget from fiscal year (FY) 2008/09 to fiscal year 2009/10.

The Commission's annual operating budgets for three fiscal years are as follows:

FY 2008/09 (actual)	$201,658,000
FY 2009/10 (estimated)	$813,842,000
FY 2010/11 (budgeted)	$420,143,000.

Although approximately one-half of the unprecedented, four-fold increase in funding between FY 2008/09, and FY 2009/10, is attributable to ARRA funding, another approximately one-half of the increase is from non-ARRA funded programs. From FY 2008/09 to FY 2009/10, total Energy Commission staff resources, measured in person years (PYs), increased just 23 percent. These PYs included reliance on overtime, retired annuitants, and limited term positions, in addition to authorized full-time positions. As a result, the level of personnel resources is strained to meet demands being placed on the Commission this year, and in the next few years, from both ARRA and non-ARRA, funded activities, stressing the productivity and effectiveness of staff.

The Energy Commission's readiness to manage ARRA funding is impacted by the significant simultaneous growth in non-ARRA funded programs. These other programs demand many of the same experienced staff resources for procurement, contract development, and project monitoring and management, which are now required for ARRA funded programs.

b. The increase in Energy Commission workload created by ARRA, coupled with non-ARRA projects, increase the risk that the Commission will not be able to complete all work in a timely manner.

A number of Commission managers indicated during interviews that projects funded by ARRA are considered top priority, while non-ARRA funded projects are considered lower priority in competition for staff resources. The Energy Commission executed contracts and loans with eighty-eight (88) percent of ARRA SEP subrecipients by June 30, 2010. Only the Clean Energy Business Finance (CEBF) program loans have yet to be executed. All Energy Efficiency Conservation Block Grant (EECBG) funds were obligated by June 30, 2010. As the ARRA program moves forward, there will be new demands on existing staff resources to manage ARRA projects and state-mandated initiatives, research efforts, and projects. Efforts to manage active ARRA contracts will require significant attention from staff.

c. Energy Commission staff are currently strained to meet new state and federal mandated, and ARRA, workloads.

In the fall of 2008, the Energy Commission sought, and obtained, approval from the California Department of Finance for fourteen (14) additional positions for FY 2009/10 to support ARRA activities. The positions were authorized for July 1, 2009, and consist of the following:

- SEP: Nine (9) two-year, limited term positions
- EECBG: Five (5) permanent positions.

The Energy Commission filled most of these fourteen (14) new positions during FY 2009/10. These fourteen (14) positions dedicated to ARRA activities are not the only personnel who spent time during FY 2009/10 on ARRA support activities. Based on Commission time keeping records, 102 Commission individuals cumulatively spent the equivalent of approximately thirty-two (32) full-time positions on ARRA activities between July 1, 2009, and May 31, 2010.

The ARRA personnel resources are even greater than that captured by the time keeping system. Forty-four (44) Energy Commission project managers have been identified in the organization, and not all Commission employees who work on ARRA activities code their time on monthly timesheets as an ARRA activity. A number of individuals interviewed for this preliminary readiness assessment indicated they do not consistently capture ARRA time on their monthly timesheets.

The demand on staff time is greater than originally planned in the fall of 2008, when the Commission developed and received approval of two budget change proposals. It was very difficult for the Energy Commission to accurately estimate ARRA staffing needs because this staff planning had to occur well in advance of ARRA actually becoming law.

Pressures on staff utilization may not be realistically maintained, while ensuring projects are managed effectively, subrecipients are properly trained about ARRA requirements, and instances of fraud, waste, and abuse are minimized. The Energy Commission is utilizing a number of methods to meet increased demands for ARRA staff resources. These include additional staff overtime, reliance on retired annuitants, redirecting staff, and contracting with vendors.

One factor that could have affected the availability of staff resources, on both ARRA and non-ARRA projects, was the reliance on furlough Fridays to control State costs, which effectively could have reduced staff resources by fourteen (14) percent. However, the CEC was exempt from furloughs for ARRA-related work, as the Governor's Office allowed ARRA related staff to work on furlough Fridays. Therefore, the furloughs did not impact the ARRA program rollout, as ARRA staff continued to work furlough Fridays, as needed.

Until the State budget is signed into law, overnight travel budgets may be cut, or eliminated, though there is still a travel budget for daily trips. Energy Commission program managers may not be able to conduct on-site meetings with subrecipients requiring more than a day's travel to assist subrecipients with contract compliance and project performance until a budget is passed and staff can be reimbursed for out-of-pocket expenses. However, this is not a large risk because many projects have not commenced work or are just beginning work.

d. Energy Commission managers have not fully documented future workload needs.

Energy Commission managers interviewed for this preliminary assessment have not developed a comprehensive examination, and/or estimation, of longer-term (six months, or more) workload demands and staffing needs. Without an updated workload forecast, the Commission is at risk of underestimating staff resources, developing unrealistic schedules, and/or redirecting staff unnecessarily from lower priority programs.

e. The Energy Commission experiences change management challenges as it: (1) temporarily transitions from an energy information orientation to a more project-based focus, and (2) adapts to a more structured, hierarchical organization.

Over its more than 35-year history, the Energy Commission has developed a reputation for meeting legislative mandates and goals, and for having a well-educated, experienced, and motivated staff, many of whom have been with the Commission since the 1970s and 1980s. The Commission is primarily an organization that develops energy information, as the State's primary energy policy and planning agency, and funds a wide variety of research and development programs.

With access to ARRA funds, and the significant transparency and accountability requirements attached to their use, the Energy Commission finds selected energy programs must transition, for a limited time period, from (1) a decentralized policy analysis orientation to (2) a project-based focus, with a more structured, hierarchical organization. Making this transition requires a consistent set of procedures, processes, and supporting tools.

4. Specific Findings Organized by Readiness Assessment Standards

The project team developed a macro-level, readiness assessment instrument to guide interviews with ten (10) Energy Commission administration division managers and thirteen (13) program managers. The guide consists of sixty-nine (69) controls (or standards), organized into the following eight (8) categories:

a. General assessment

b. ARRA Section 1512 Reporting

c. Human capital

d. Grants/loans/contracts

e. Procurement

f. Financial
g. Information technology services
h. Audit and investigation.

The controls and eight categories are consistent with risk considerations identified by the OMB in its guidance document M-09-15 (April 3, 2009). **Attachment A** to this letter provides an initial self-assessment of the current readiness status of each of the 69 controls based on initial interviews of selected members of Energy Commission management. The preliminary assessment includes a simple relative measure (green, yellow, or red) for the risk of noncompliance with control objectives.

In the paragraphs that follow, the project team summarizes results of the preliminary, macro-level readiness assessment, based on interviews with Energy Commission management. This summary is presented in the same eight groups presented in Attachment A.

a. General Assessment

The Energy Commission identified, and has in place, an executive management team to oversee Commission use of ARRA funds. The Commission is also a member of the California Recovery Task Force (CRTF), which updates State departments on federal guidance through regular meetings and bulletins.

The Energy Commission is in the final stages of executing many agreements with subrecipients of the ARRA programs. The Commission encumbered all block grant funds by June 30, 2010. According to Commission managers interviewed for this preliminary readiness assessment, agreements incorporate all known ARRA requirements, and include a provision to modify the agreements if new authoritative guidance emerges from the DOE, U.S. Department of Labor (DOL), or other agencies. Procurement processes, procedures, and documentation are now established and operational, for additional ARRA solicitations.

The Energy Commission understands that its current process flows for documents, approvals, and reporting requirements among Commission Project Managers (CPMs), Grants and Loans, Contracts, other operating units or offices, and with Commission supervisors and executive staff, need to include ARRA requirements. The Commission engaged Perry-Smith to evaluate and enhance project management processes, procedures, and capabilities for ARRA programs. The Commission also is strengthening fund distribution processes to more effectively administer distribution and monitoring of ARRA funds.

The Energy Commission is expediting payments to subrecipients to meet ARRA prompt disbursement requirements. The Commission is currently streamlining its existing 30-day payment goal to meet ARRA accelerated timeframes. The Commission plans to use existing processes for payment review and approval, but these processes are untested for the volume and diversity of requests that are expected, as an increasing number of ARRA projects begin.

There is some risk that EECBG funds already awarded will not be accepted by some subrecipients. Some municipalities who received small grants are reconsidering whether the grant received is sufficient to warrant incurring the significant administrative burden of meeting the ARRA requirements.

The Energy Commission has not yet adopted a formal, Commission-wide methodology for measuring performance, including key energy performance metrics. However, the Commission entered into a contract with KEMA, Inc., to provide performance measurement and validation services for ARRA-funded projects.

b. Reporting

The Energy Commission designed, installed, and is using the California ARRA Reporting System (CARS), which was created specifically to support staff efforts to efficiently and effectively meet Office of Management and Budget, Section 1512, and DOE performance metrics reporting requirements and timeframes. The Commission also defined supporting processes, and prepared documentation and subrecipient training, to meet ARRA reporting requirements. The Commission has been through four reporting cycles and is currently meeting ARRA requirements for data reporting.

The CARS application supports two levels of validating data integrity: (1) automated edit checks to determine whether a subrecipient report submission includes every ARRA required field, and (2) manual data checks by CPMs. The CPMs are responsible for ensuring that subrecipient data are received within three days of month end. Another two days are allowed for the CPM to review submitted data for accuracy and consistency, prior to approving data. Upon approval, the CARS application automatically submits data to the California Office of the Chief Information Officer (OCIO), for public reporting.

Given the expected, large volume of subrecipient reports, particularly those for Energy Efficient and Conservation Block Grants (EECBG), there is risk that CPMs managing subrecipients may not meet required turn around times, nor be able to ensure submitted data are accurate. CPMs managing ARRA block grants are managing two to three times their normal project load. Additionally, there is limited ability to augment the CPM resources as there currently are two vacant CPM positions within the Special Projects Office, which when filled, will help support ARRA activities. However, the Energy Commission expects to fill these two positions soon.

c. Human Capital

Selected Energy Commission departments, primarily those involved in procurement activities through agreement execution, were significantly impacted during initial implementation of ARRA programs. As projects move from solicitation and agreement execution, into project monitoring and ARRA fund disbursement, other Commission business units, as well as the CPMs and accounting staff, will be significantly impacted. These functional areas need to assess their resources and processes to service the significantly increased activity of grant, loan, and contract transactions.

Prior to receiving ARRA funding, the Energy Commission contracted for $75,000 in temporary personnel services. This contract provided data input, document filing, forms processing, help line staffing, and customer service support for the ARRA programs.

In March 2010, the California Department of Personnel approved the Energy Commission's new, Administrative and Financial Management Services Division, Deputy Director position. This Deputy Director position was filled on July 13, 2010. The Commission's Chief Information Officer (CIO) position is currently vacant. The new Deputy Director considers filling the CIO position a top priority. These two key positions have a direct impact on the direction of the ARRA program procedures and policies, and will be fully integrated into the Executive Management Team.

Nearly all forty-four (44) designated CPMs are functionally within two of the Energy Commission's six divisions. This cross-divisional segmentation capitalizes on strong technical expertise of staff within each division for the respective grants, loans, and contracts. However, being functionally located among two divisions creates the opportunity for miscommunication, and inconsistent application of project management approaches to ARRA processes and procedures. Risk of inconsistently applying and monitoring agreement provisions is significant if there are not: (1) established processes and procedures for handling ARRA funded projects, (2) effective and consistent CPM training, and (3) an established, effective, and consistent means of communication among all CPMs.

To mitigate this cross-divisional segmentation, Energy Commission management has encouraged ARRA information sharing across the Commission. For example, the Commission formed the Internal Federal Economic Stimulus Team (IFEST), a group of program staff responsible for ARRA-funded activities. The IFEST meets periodically to share information and lessons learned about ARRA efforts. Additionally, the Commission established the ARRA Principals Team, a group of key managers and legal staff who meet weekly to provide status updates, develop strategies, identify problems and barriers, and develop recommendations to effectively implement ARRA-funded programs. The Commission also established the ARRA ad hoc committee, involving two of the Commissioners, legal staff, Deputy Directors, and Governmental Affairs. The ARRA ad hoc committee usually meets each week to discuss and approve ARRA items to be on the Commission's agenda. These collaboration efforts, including the IFEST, ARRA Principals, and ARRA ad hoc committee, allow key ARRA managers and staff to share information, and obtain guidance from the Executive Office and policy makers.

d. Grants/Loans/Contracts

In accordance with ARRA transparency requirements, the Energy Commission awarded ARRA funds through a competitive bid process. The Commission's bid process allows for applicants to contest award decisions. Legal office staff, selected CPMs, Grants and Loans staff, and Contracts staff worked together for several months to ensure that ARRA requirements were properly implemented for each solicitation and award. Initial ARRA awards were not as prompt as originally anticipated because the Commission had to incorporate new guidance from the DOE into the solicitation and contract process, and the Commission had to adapt existing policies and procedures to reflect nuances of ARRA requirements. At this time, Commission management believes that processes are in place to ensure that funds are awarded in a prompt, fair, and reasonable manner.

The CPMs are a subrecipient's primary point of contact with the Energy Commission. They are technically knowledgeable about the work to be performed and have capabilities to assist subrecipients through all stages of an energy project, from defining the scope through implementation and execution, but they are not fully trained to effectively and efficiently manage ARRA funded projects. Also, CPMs will have limited time, and limited travel budgets until the State budget is passed, to perform site visits and address problematic subrecipients. In addition, the Commission is still in the process of defining specific project management responsibilities, approaches, and activities that would guide CPMs in managing projects. Given their central role in working with subrecipients, it is critical that CPMs receive proper training in project management methodologies, process, and tools, as well as effective training in monitoring subrecipient compliance with all ARRA requirements. Through contracts with Perry-Smith and KEMA, Inc., the Commission is preparing for additional training in both project management and ARRA project monitoring.

As of June 30, 2010, the Energy Commission had mailed approximately 125 EECBG agreements to subrecipients for signature and had received back over 30 signed agreements. There is a concerted effort to have these subrecipients execute agreements as soon as possible. This effort includes weekly calls by staff to subrecipients who have not returned signed agreements or amendments. Subrecipients also are required to attend a "kick-off" meeting, allowing CPMs to explain all ARRA requirements, before a subrecipient can begin work. Kick-off meetings have been scheduled for all newly finalized subgrantee contracts in a group, with weekly Webinars, beginning July 7, 2010. The Webinar participants will be subrecipients whose contracts were executed the previous week. This plan allows for timely training of subrecipients.

The Energy Commission originally awarded $30.2 million under its SEP Municipal Financing (MF) program to public agencies for development of financing programs supporting energy efficiency improvements in residential and commercial buildings. Building owners would contractually agree to repay financing through property tax assessments. Subsequent to these awards, the Federal Housing Finance Agency halted this program, and the State of California sued the federal government over these actions. The Energy Commission is now reconsidering the status of this program and the redeployment of these ARRA funds to other programs.

The Energy Commission has $35.2 million in ARRA funding for its State Energy Efficient Appliance Rebate Program (SEEARP). The Commission is in the process of undertaking an expansion of this program from energy-efficient refrigerators, clothes washers, and room air conditioners. The expansion includes adding energy efficient dishwashers; freezers; solar water heaters; and heating, ventilating, and air conditioner (HVAC) systems. This program began April 22, 2010. The weak economy may have been a factor in the slow response to this program, prompting the Commission to expand this federally funded "cash for appliances" program.

e. Procurement

The procurement function, defined for this assessment by OMB's memo M-09-15, encompasses all activities from solicitation for subrecipients, through payment at the completion of the subrecipient's project. Many of these activities are assessed in other relevant control sections of this assessment report. In summary, Commission management believes that processes are in place that: (1) allow for transparent awarding of ARRA funds, (2) ensure that subrecipient agreements include all ARRA requirements, and (3) track and review subrecipient ARRA reporting. The Energy Commission is currently designing and documenting roles and procedures to ensure that payments to subrecipients are made after appropriate reviews for: (1) meeting project milestones, scope, budget, and schedule, and (2) compliance with ARRA.

Energy Commission ARRA agreements provide for payment to subrecipients after the subrecipient pays the vendor for completion of work. This provision minimizes the risk of fraud, waste, and abuse. Some EECBG subrecipients are facing cash flow constraints, restricting their ability to pay a contracted vendor, and then waiting for the Energy Commission to reimburse a payment request, in compliance with ARRA. In response, the Commission approved a formal resolution to modify the disbursement process for EECBG subrecipients, allowing payment based on "sufficient documentation of cost incurred" (e.g., vendor invoice). Disbursing funds before a subrecipient actually pays their vendors increases the risk of a payment to a vendor who does not perform, and increases the risk of fraud, waste, or abuse.

To mitigate this payment risk, the Energy Commission has implemented a number of measures. These measures include 10 percent retention of grant funds until project completion and approval; reconciling agreement costs before final payments; and ongoing project monitoring. The Energy Commission is under constant pressure from the U.S. Department of Energy to quickly disperse ARRA funds, while avoiding fraud, waste, and abuse of ARRA funds.

f. Financial

To comply with ARRA requirements, the Energy Commission established unique cost accounting codes to ensure that ARRA funds are clearly distinguishable, and procedures to reconcile the Commission's accounting records with State Controller's Office financial statements. Specifically, the Commission established unique program cost account (PCA) codes that are used within the State of California's accounting system, CALSTARS, in order to account for, and allocate ARRA funding and expenses among the funded energy programs.

The Energy Commission's existing internal controls are designed to: (1) mitigate instances of fraud, waste, and abuse, (2) ensure that fund payments are properly authorized, and (3) ensure that payments are made in a timely fashion. The Commission is using these controls for ARRA funds. However, the Commission has processed a relatively small amount of ARRA payments to-date. In the near term, the volume, and size, of subrecipient reimbursement requests will increase significantly. In addition, payments for ARRA projects are likely to be expedited to meet federal requirements for obligating funds. Higher volumes of payment requests and reduced turnaround times could: (1) put pressure on CPMs' abilities to manage and monitor each grant, loan, or contract, (2) delay disbursement of funds, and/or (3) reduce the effectiveness of internal controls. The Commission contracted with Perry-Smith to identify potential risks associated with ARRA accountability objectives, to identify factors to mitigate these risks, and to identify opportunities to strengthen or improve existing Commission's policies, processes, procedures, systems, and internal controls.

Applicants for Clean Energy Business Finance (CEBF) loans are reliant on venture capital, sale of additional common stock in public markets, or development of profitable operations to generate sufficient working capital to meet loan payments as they become due. There is a risk that these businesses will not be able to repay their loans when due. In addition, after funding, these loans are turned over to the Financial Development Corporation (FDC) for servicing and maintenance, and Energy Commission staff have limited involvement. Loan servicing by an outside organization may make it more difficult to monitor and collect delinquent payments.

To mitigate this FDC risk the Energy Commission will be involved in this program for its entire duration. This Commission engagement includes reviewing and approving all subrecipient (Business, Transportation, and Housing Agency) invoices, along with all FDC invoices.

g. Information Technology Services

The Energy Commission maintains four information systems and databases (budgets, contracts, grants and loans, and the Program Information Management System (PIMS)) to support Commission operations. Staff use all four systems, plus a fifth system designed specifically to support ARRA Section 1512 reporting, to support different aspects of ARRA project tracking or compliance. These databases are generally stable and most work well, while some are more cumbersome and not easily enhanced to meet the increased project management needs of CPMs. These multiple databases are not well integrated, from an enterprise perspective, requiring file exchanges to import or export data.

Energy Commission management intends to use the Program Information Management System (PIMS) to support CPM project management of ARRA projects. The PIMS provides functionality for tracking project-level budgets and expenditures, but lacks other project-level capabilities. The PIMS works well for workflows of the Commission operating division currently using PIMS, and for which it was originally designed. The Commission plans to provide initial, and continuous, training to ARRA CPMs on the use of PIMS to help monitor ARRA projects. The PIMS as yet does not provide loan administration functionality to support certain aspects of ARRA-funded loan programs. The above limitations will constrain the ability of PIMS to fully manage ARRA projects in the short term.

Reporting capabilities have been augmented by Excel spreadsheets in response to the limited flexibilities or capabilities of the systems or databases. With these limitations, information could be erroneously summarized from one system for input to another. The introduction of downloaded, or manually input data to Excel spreadsheets, increases the potential for error or inaccurate specifications for data extraction. In addition, the lack of system interfaces increases the time required by Energy Commission staff to generate reports and perform analysis of ARRA programs.

The Energy Commission has lost experienced information technology staff developers for three primary information systems: budgets, contracts, and grants and loans. The Commission's Chief Information Officer (CIO) position is currently vacant, as are three (3) other authorized IT positions, though these positions are not necessarily all ARRA support positions. These IT position vacancies have caused some disruption in information system development and support. However, the Commission is reprioritizing existing staff and utilizing contractor staff where needed, to help support its systems. Recruitment is underway and the Commission intends to fill all three IT vacancies by August 2010. The Commission has IT subject matter experts to support current information systems and provide user training related to ARRA programs. The Commission does not yet have sufficient IT resources to fully support an appliance rebate database. Delays in making required modifications to information systems that may be needed to efficiently support ARRA project management would inhibit these systems from efficiently and effectively supporting the substantial influx of new ARRA projects.

h. Audits and Investigations.

The Energy Commission does not have an internal audit function, but does address internal control weaknesses identified from external agencies. In recognition of this resource constraint, the Commission has contracted for a risk assessment and review of internal controls. To meet DOE timeframes for obligating funds, the Commission is awarding grants, loans, and contracts prior to the completion of the internal control infrastructure. The Commission is currently establishing and documenting processes and procedures to monitor ARRA compliance. These procedures and related training will be difficult to fully implement prior to significant disbursements of ARRA funds.

5. Summary

The Energy Commission faces challenges to ensure its processes, procedures, and internal controls are effective in: (1) monitoring compliance requirements for subrecipients using ARRA funds, and (2) mitigating and minimizing the risks of fraud, waste, and abuse, based upon requirements for transparency and accountability set forth in the ARRA. The Commission should be cautious in diverting limited staff resources from managing ARRA projects.

Success of the Energy Commission ARRA initiative depends on the performance of internal Commission management and external subrecipients. We provide two high-level recommendations, one for each of these two critical groups, below.

Energy Commission Manager Supervision

Risk of subrecipient non-performance, or non-compliance with contract terms, increases if the Energy Commission assigns each remaining ARRA CPM more ARRA subrecipient contracts to manage than is reasonable. Considering the significant performance and compliance requirements of each subrecipient that a program manager must manage and monitor, and the wide variation in size and complexity of each funded project, Commission management must carefully determine the number, type, size, and complexity of ARRA projects it assigns to each CPM, to match their skills, experience, and available time.

Achieving ARRA goals requires an increased focus on effective project management and monitoring. Effective project management includes reviewing and monitoring each project's adherence to contract scope, budget, and schedule, assessing the adequacy and timeliness of required reports, and communicating with the subrecipients. These are common objectives of traditional project management.

Senior level Energy Commission managers who supervise individual ARRA project managers must be vigilant in managing their ARRA project management personnel. This requires senior management's constant, and consistent, oversight of the status of ARRA projects being managed by individuals within their span of control. The Commission currently holds weekly meetings with key ARRA program managers.

The Energy Commission understands the immediate need to provide training to its forty-four (44) project managers, and to communicate the potential risks of what will be a significant increase in funded projects. Development of standardized monitoring processes, based on a consistent methodology, will provide a workflow, and insights, on how to manage activities of each project. The Commission approved a Perry-Smith assignment to provide on-site training in project management techniques and ARRA monitoring requirements. This training will commence in August 2010 to help mitigate the risk of subrecipient projects not meeting budget, scope, schedule, performance, and reporting requirements.

While this project management and monitoring training is being completed, and implemented across the organization, we recommend that the Energy Commission direct all its ARRA managers and supervisors to continue to meet with their ARRA staff on a weekly basis to closely supervise, and direct, the status of ARRA projects. These managers and supervisors provide a weekly status report to their respective division heads that include the following information:

- Status of every ARRA project under their supervision, such as the progress, or percent, provided of completion for milestones and deliverables
- Identification of any significant ARRA risk factors, or ARRA emerging issues, and suggested resolutions
- Major ARRA milestones (such as deliverables or task completion) , posted to the Energy Commission website.

Division heads should continue reporting to the Executive Office on a weekly basis with their ARRA status report. This ARRA reporting process is key to sharing ARRA information with the Executive Office.

Subrecipient Performance

The Energy Commission should continue constant and consistent communications with subrecipients, as well as with its own ARRA project managers and administrative support staff. The communication with subrecipients occurs immediately after a contract is executed, and includes one-on-one guidance and assistance (versus just group efforts), if possible.

Effective project management of ARRA-funded projects adds an additional, and significant, layer of management concerns. ARRA funding requires ensuring projects meet specific performance goals, expectations, milestones, reporting, and proof of performance related to ARRA goals, in addition to established federal grant requirements. ARRA project management includes assisting subrecipients to understand the significant requirements of ARRA, monitoring identified risk elements, and prioritizing subrecipients based on risk elements to determine the need for increased monitoring.

The Energy Commission recognizes these critical project management needs and understands the importance of communicating these needs in clear, simple terms to those responsible for managing ARRA projects. Legal staff originally drafted, and the Commission is now enhancing, a seventeen (17) page, step-by-step checklist to ensure that ARRA-funded grants and loans are in compliance with requirements of the grant and loan agreements, which can reduce risks of poor project performance and non-compliance. Providing such tools helps overcome the challenges of different business processes, workflows, program goals, and management styles among the Commission operating divisions that are receiving ARRA funds.

The Energy Commission develops, and posts on its website, a broad range of information about ARRA funded energy programs and projects. This information includes solicitation documents, notices of awards, program guidelines, and individual project descriptions. The Energy Commission should continue with these transparency efforts of keeping the public and recipients informed.

The Energy Commission recognizes the need to ensure projects funded under ARRA avoid unnecessary delays and cost overruns, ensure program goals are achieved, and minimize instances of fraud, waste, and abuse. The Commission is increasing its constant and consistent communication with stakeholders, using multi-media approaches such as webinars, "e-blasts", initial project kickoff meetings, and downloadable program guides. We stress continuation of these Energy Commission outreach efforts.

The Energy Commission needs to maintain constant and consistent communications with its subrecipients. The Commission needs to continue to direct its ARRA staff to formally communicate with each of the subrecipients under their respective responsibilities on a monthly basis regarding the status of the ARRA project. Staff should be inquiring about:

- Status of every ARRA subrecipient under their supervision, such as the progress, or percent, provided of completion for milestones and deliverables
- Identification of any significant subrecipient risk factors, or subrecipient emerging issues, suggested resolutions, and subrecipient corrective actions
- Major subrecipient milestones (such as deliverables or task completion), posted to the Energy Commission website.

* * * * * * *

We appreciate the insight and opinions of Energy Commission executives, managers, and staff who participated in the interviews conducted for this preliminary, macro-level readiness assessment, and for providing requested background documentation. As required by DED 5.1, we provide with this submission a CD that contains this letter report as a Word file.

Very truly yours,

Perry . Smith LLP

cc.
Ms. Claudia Chandler
Chief Deputy Director

Attachment A

Preliminary Macro-Level Readiness Assessment of the California Energy Commission

California Energy Commission
American Recovery and Reinvestment Act of 2009 (ARRA)
Program Support Services

As of 7/23/2010

<u>Relative Risk of Non-Compliance with Control Objectives</u>

- Low risk of non-compliance.
- Medium risk of non-compliance.
- High risk of non-compliance.

Preliminary Macro-Level Readiness Assessment of the California Energy Commission

Facilitated Self-Assessment

The accompanying representations of management have not been subject to independent testing.

Date: July 23, 2010

Consolidation of findings and conclusions from interviews with ten (10) Administrative and Financial Management Services Division managers and thirteen (13) Commission Project Managers (CPMs)

ARRA Objectives	Resources
1. *Funds are awarded and distributed in a prompt, fair, and reasonable manner.* 2. *Reporting is transparent to the public, and public benefits of these funds are reported clearly, accurately, and in a timely manner.* 3. *Funds are used for authorized purposes and instances of fraud, waste, error, and abuse are mitigated.* 4. *Projects funded under ARRA avoid unnecessary delays and cost overruns.* 5. *Program goals are achieved, including specific program outcomes and improved results on broader economic indicators.*	**Guidance on Internal Controls and Energy Commission Readiness:** http://www.dgs.ca.gov/SAM/internalcontrols http://www.bsa.ca.gov/pdfs/reports/2009-119.1.pdf http://www.inspectorgeneral.ca.gov/ **American Recovery and Reinvestment Website** http://www.recovery.gov

Control Objectives	Facilitated Self-Assessment	Rating
The accompanying representations of management have not been subject to independent testing.		

A. General Assessment

	Rating
1. The Energy Commission has established, or is making use of a pre-existing, executive level team to oversee ARRA funds received by the Commission.	Green
Status: 1. The Commission created the Federal Stimulus Program Ad Hoc Committee, consisting of two Commission members, to oversee the administration of ARRA Funds at the Commission level. 2. A management committee, ARRA Principals, comprised of personnel from the Executive Office, Legal, Contracts, Grants & Loans, the Energy Efficiency & Renewables Division, and the Fuels & Transportation Division, track and manage all ARRA activities through weekly meetings. 3. In addition, the Internal Federal Economic Stimulus Team (IFEST) meets weekly, including selected supervisors and Commission Project Managers (CPMs), to address ARRA implementation and monitoring issues. Potential risks: 1. Information and issues may not be reported and discussed promptly and consistently. 2. Subject matter experts for all nuances of ARRA may not be resident at the Commission.	
2. Executive oversight team has established methods to meet and track ARRA accountability and transparency goals.	Green
Status: 1. ARRA accountability and transparency goals are monitored through the CPM point of contact and the required monthly reporting under ARRA Section 1512. The California ARRA Reporting System (CARS) application and related controls accumulate the updated ARRA data points to be reported by the 10^{th} day of the month to the State Office of Chief Information Officer (OCIO). OCIO compiles all data on a statewide basis with other state departments and submits monthly to the OMB. 2. Transparency information, including information on ARRA program solicitations and awards and ongoing 1512 reporting, is provided on the Recovery.ca.gov website. The Commission has contracted with a consultant to enhance the web-based reporting. In addition, the Assistant Executive Director for Media and Public Communications has been appointed for ARRA communications. Potential Risks: 1. Compliance with ARRA goals and objectives will be jeopardized if information is not transmitted promptly. 2. ARRA data points must be reviewed for accuracy prior to reporting or accurate information will not be reported for ARRA accountability and transparency requirements.	
3. Executive oversight team is educated on Office of Management and Budget (OMB) guidance and has established a method/process to receive updates.	Green
Status: 1. The Energy Commission is a member of the California Recovery Task Force (CRTF), which is the single point of State contact with federal agencies responsible for ARRA oversight. CRTF is responsible for informing all State departments about federal ARRA requirements. CRTF updates State departments on federal guidance through regular meetings and bulletins. 2. Commission personnel have worked directly with the U.S. Department of Energy (DOE) and the U.S. Department of Labor (DOL) in clarifying provisions of ARRA.	

Potential risks:

1. Additional guidance on OMB requirements may require prompt changes to subrecipient grants, loans or contracts resulting in inconsistent agreements or failure to promptly implement new requirements by Commission staff and subrecipients.

4. Training requirements have been identified for current or new employees to enable them to meet the requirements of ARRA.

Status:

1. The ARRA Principals have identified areas within ARRA that are beyond the existing practices of the Energy Commission's internal control and reporting processes and procedures. Individuals within each functional area are developing training and/or guidelines to address the new ARRA requirements.
2. Training tools for the ARRA Section 1512 reporting are complete.
3. Training requirements for the CPMs' monitoring responsibilities are currently being identified, and the materials are to be developed in the near term.

Potential risks:

1. As of June 30, 2010, 22 SEP Energy Conservation Assistance Act 1% Loans (ECAA 1% Loans) and 39 Energy Efficient Conservation Block Grants (EECBG or block grants) have been executed. An additional three (3) loan agreements and approximately 80 block grant agreements are in the final stages of execution. Near term development and delivery of CPM training is important for effective monitoring of compliance with ARRA requirements.

5. The Energy Commission has staff adequately trained to effectively implement ARRA requirements.

Status:

1. The key Commission ARRA staff involved in assessing and delivering training include CPMs, the ARRA Executive Office, Legal, Grants & Loans and Contracts. Training for CPMs has not occurred, but is under development, beginning with tools to oversee the ECAA 1% Loans and EECBG programs. These tools will be further tailored for the other SEP programs as specific programs commence. Full training on how to monitor ARRA subrecipients is being developed by a contractor.
2. Grants & Loans and Contracts management have established forms and checklists related to the ARRA funding and monitoring processes that enable current or new personnel to meet the requirements of ARRA.
3. Training materials are developed for ARRA 1512 reporting. ARRA 1512 reporting is performed through the CARS system.
4. The Energy Commission entered into a Program Support Services agreement with a contractor to help provide project management training to Commission ARRA managers.

Potential risks:

1. The Commission has not fully formulated and documented specific process flows for approval and reporting requirements between CPMs, Grants & Loans or Contracts, and other organizations. These information and document flows are currently being addressed and documented.
2. Given the number of subrecipients and the short time that the Commission has to review and approve data, progress reports and claims for payments to subrecipients, a lack of clear information flows could increase the risk of incomplete or inconsistent implementation of ARRA monitoring requirements or failure to promptly disburse ARRA funds.

6. The Energy Commission implemented new requirements, conditions, and guidance as necessary to comply with ARRA.

Status:

1. The Legal Office has ensured that the ARRA grants, loans and contracts include all ARRA requirements. The grants, loans and contracts also have a provision that allows the Commission to modify the agreements if new authoritative guidance emerges from the DOE, DOL or other agencies.

Status *(continued)*: 2. Grants & Loans and Contracts management developed procedures to ensure the consistent implementation of ARRA requirements. 3. CPM is developing the "Kick-Off Meeting" training and guidance materials in early July 2010 for subrecipients to ensure that subrecipients understand and comply with ARRA requirements. Informal CPM training is ongoing; full CPM training on how to monitor ARRA subrecipients is being developed by a contractor. Potential risks: 1. The specific process flows for monitoring and reporting requirements between CPMs, Grants & Loans or Contracts, and other divisions/offices are not fully defined or documented. These information and document flows are currently being addressed and documented. 2. Given the number of subrecipients and the short time that the Commission has to review and approve data, progress reports and claims for payments to subrecipients, a lack of clear information flows could increase the risk of incomplete or inconsistent implementation of ARRA monitoring requirements or failure to promptly disburse ARRA funds.	
7. There is an Energy Commission-wide risk assessment process in place to identify risks associated with ARRA.	
Status: 1. The Commission entered into a Program Support Services agreement with a contractor to provide guidance on risk assessment. Potential risks: 1. If ARRA disbursements are made ahead of a complete risk assessment and establishment of risk mitigation procedures, there is a risk of noncompliance with ARRA requirements.	
8. A risk management plan has been developed to mitigate risks associated with ARRA.	
Status: 1. The Energy Commission entered into a Program Support Services agreement with a contractor to provide guidance on risk assessment. 2. The Commission has not developed a formal risk management plan to mitigate risks associated with ARRA. Potential risks: 1. If ARRA disbursements are made ahead of a complete risk assessment and establishment of risk mitigation procedures, there is a risk of noncompliance with ARRA requirements.	
9. There is an Energy Commission-wide methodology for measuring performance, including key performance metrics.	
Status: 1. The Commission entered into a Monitoring, Verification and Evaluation agreement with a contractor to provide performance evaluation and reporting capabilities. Potential risks: 1. If ARRA disbursements are made prior to developing key performance metrics, the risk of incomplete and inconsistent implementation of ARRA requirements would be heightened.	

10. The Energy Commission strategic plans have been updated for ARRA activities and the effects of ARRA on existing programs.	Yellow
Status: 1. The Financial Integrity and State Manager's Accountability Act (FISMA) report as of December 31, 2009 did an overall assessment of key strategic issues with ARRA funding. 2. ARRA programs are briefly discussed in the Commission's 2009 Integrated Energy Policy Report. This report describes trends in energy and recommends energy policies. It is prepared biannually by the Energy Commission as required by SB 1389. Potential risks: 1. The increase in Energy Commission workload created by ARRA, coupled with non-ARRA projects, increases the risk that the Commission will not be able to complete all non-ARRA projects in a timely manner.	
11. Procedures have been developed to meet ARRA whistleblower provisions (section 1553).	Green
Status: 1. State of California whistleblower provisions have been implemented. 2. Whistleblower provisions are included in ARRA grant, loan and contract agreements. Potential risks: 1. Actual whistleblower incidents could be inadequately evaluated or reported.	
12. Individual Commission programs receiving ARRA funds have been reviewed and risks have been identified and prioritized, and risk mitigation procedures have been established.	Yellow
Status: 1. The Energy Commission entered into a Program Support Services agreement and entered into a Monitoring, Verification and Evaluation agreement, with contractors to provide guidance on risk assessment, performance evaluation and reporting capabilities. Potential risks: 1. If ARRA disbursements are processed ahead of a complete risk assessment and the establishment of risk mitigation procedures, there is a risk of incomplete and inconsistent implementation of ARRA requirements.	
B. ARRA Section 1512 Reporting	
13. Processes are in place to meet the necessary reporting requirements of ARRA.	Green
Status: 1. The Energy Commission's CARS application and supporting processes meet ARRA 1512 reporting requirements. The Commission prepared training materials and subrecipients will receive reporting training as part of the subrecipient kick-off meeting. Potential risks: 1. The kick-off meeting is being conducted in a Webinar format for multiple grantees instead of a one-on-one discussion of requirements. This could lead to inconsistent training absorption across subrecipients.	

14. Senior leadership for the Energy Commission has assessed people, processes, and technology to determine where to deploy and coordinate resources to meet the initial demands of reporting for ARRA.	Green
Status: 1. The Commission implemented the CARS application and defined supporting processes to meet the requirements of ARRA reporting. The Commission utilized a vendor, Cambria, to assist in development of the reporting system. The Commission has to date successfully reported ARRA data as required. 2. CARS software performs selected automated edit checks on the data when submitted by subrecipients. 3. CPMs are the first point of contact for the grantees and are responsible for ensuring the monthly data points are received within three days of month end. CPMs review the data in the next two days prior to the Reporting unit passing the information on to the State Office of Chief Information Officer (OCIO) for monthly reporting. 4. The Commission is training subrecipients on ARRA reporting requirements during subrecipient kick-off meetings. Potential risks: 1. People, processes, and technology are in place to meet the initial demands of reporting for ARRA. The volume of contracts that will begin shortly could put pressure on the CPM review process, putting at risk CPMs' abilities to respond to subrecipients on a timely basis and to identify instances of fraud, waste, and abuse.	
15. The Energy Commission implemented communication vehicles to ensure ARRA data are promptly reported on the state's website.	Green
Status: 1. The Commission uploads ARRA data to the State OCIO as required. The data are generated into an XML based data file directly from the Commission's CARS application. Data elements in the CARS application undergo both automated and manual review procedures for completeness and accuracy prior to being provided to the State. 2. The Commission's CARS application automatically notifies a recipient if any ARRA-required data elements are missing from the subrecipient's data submission. Potential risks: 1. The Recovery.ca.gov website, which reports ARRA data for all State agencies, is not under the control of the Commission. If the Recovery.ca.gov website is not updated on a timely basis with the Commission's reported data, ARRA data will not be promptly reported.	
16. Reports prepared under ARRA are reviewed and approved by the appropriate individuals prior to publication.	Yellow
Status: 1. The Energy Commission's CARS application supports the ARRA reporting process. Reports and the underlying data are reviewed by CPMs prior to publication. Commission management reviews and approves reports prior to publication. Potential risks: 1. CPMs managing ARRA block grants are managing two to three times their normal project load. There are two CPM unfilled vacancies and no open requisitions for additional staff due to state budget constraints. There is risk in ensuring that the CPMs perform a thorough review of ARRA monthly reports submitted by subrecipients, while still meeting the time requirements for submission to the OCIO.	

17. A process is in place to ensure the data reported under ARRA are accurate and complete. (Rating: yellow)

Status:

1. The Energy Commission's CARS application supports the ARRA reporting process. The CARS application performs data validation for accuracy and reasonableness of data reported. Additionally the CARS application provides a report of subrecipient data status which allows the Commission to determine if all data has been received.
2. The underlying data are reviewed and approved by CPMs prior to publication.

Potential risks:

1. CPMs managing ARRA block grants are managing two to three times their normal project load. There are two CPM unfilled vacancies and no open requisitions for additional staff due to State budget constraints. There is risk in ensuring that CPM reviews of ARRA monthly reporting by subrecipients can meet the time requirements for submission to the OCIO and that data accuracy is achieved.

18. A process is in place to ensure data are reported timely in accordance with ARRA requirements. (Rating: green)

Status:

1. The Energy Commission's CARS application and supporting processes enable timely reporting in accordance with ARRA requirements.
2. A structure is in place to require submission of information by the grantee within 3 days. Another two days are allowed for the CPM to review and approve the data points.
3. The Commission reporting process currently provides sufficient time for the OCIO to accumulate data for all State of California agencies to report to federal agencies, including the DOE, as required.

Potential risks:

1. CPMs managing ARRA block grants are managing two to three times their normal project load. There are two CPM unfilled vacancies and no open requisitions for additional staff due to State budget constraints. There is risk in ensuring that CPMs monitor grantee data that is missing and also completes the review and approval of ARRA monthly reporting by subrecipients prior to the time requirements for submission to the OCIO and that data accuracy is achieved.

19. ARRA Section 1512 reports inform Energy Commission management regarding ARRA activities on a timely basis. (Rating: green)

Status:

1. The Commission's CARS application and supporting processes permit timely reporting in accordance with ARRA requirements.
2. Information about each ARRA funded energy program, including information about total allocation, specific subrecipient awards, remaining funding and ARRA Section 1512 reporting is provided on the Recovery.ca.gov website on a timely basis.

Potential risks:

1. If the information presented in the reports is not accurate, complete or timely, the Commission will fail to meet the ARRA transparency requirement.

20. Issues are identified through established reports and addressed on a timely basis.	(yellow)
Status: 1. Issues related to data reported by subrecipients are identified through both automated checks in the CARS application and by CPM manual reviews. If the CARS application identifies a problem, it automatically sends an email to the subrecipient requesting a resubmission with the information completed or corrected. The CPM review is scheduled to fit within the OCIO reporting timelines. Potential risks: 1. CPMs managing ARRA block grants are managing two to three times their normal project load. There are two CPM unfilled vacancies and no open requisitions for additional staff due to State budget constraints. There is risk that CPM reviews of ARRA monthly reporting by subrecipients meet the time requirements for submission to the OCIO and that the data are accurate.	
21. Reports are promptly issued on the effectiveness of risk management strategies and tactics.	(yellow)
Status: 1. The Energy Commission entered into a Program Support Services agreement with a contractor to provide guidance on risk assessment. Potential risks: 1. If ARRA disbursements are made in advance of a complete risk assessment and establishment of risk mitigation procedures, ARRA requirements could be missed or violated. The lack of reports on the effectiveness of risk management strategies further increases the risk of noncompliance with ARRA requirements.	
22. A risk management plan has been approved by Department-level personnel.	(yellow)
Status: 1. The Energy Commission entered into a Program Support Services agreement with a contractor to provide guidance on risk assessment. Potential risks: 1. If ARRA disbursements are made in advance of a complete risk assessment and establishment of risk mitigation procedures, ARRA requirements could be missed or violated.	
23. A process is in place to ensure the risk management plan is monitored and updated on a regular basis.	(yellow)
Status: 1. The Energy Commission entered into a Program Support Services agreement with a contractor to provide guidance on risk assessment. Potential risks: 1. If ARRA disbursements are made in advance of a complete risk assessment and establishment of risk mitigation procedures, ARRA requirements could be missed or violated.	

Control Objectives Facilitated Self-Assessment	Rating
The accompanying representations of management have not been subject to independent testing.	

24. The Energy Commission has reporting mechanisms in place to collect the required data from subrecipients to meet ARRA transparency requirements.

Status:

1. The Commission's CARS application supports the process of collecting data from subrecipients. Training is provided by the Commission to all subrecipients to assist with the reporting process. The Commission's CARS application performs validation of the data submitted by subrecipients to ensure that all ARRA required data elements have been received. CPMs provide a manual review of the data for completeness and accuracy before the Commission electronically submits the data to the OCIO.

Potential risks:

1. CPMs managing ARRA block grants are managing two to three times their normal project load. There are two CPM unfilled vacancies and no open requisitions for additional staff due to State budget constraints. There is risk in ensuring that CPM reviews of ARRA monthly reporting by subrecipients can meet the time requirements for submission to the OCIO and that data accuracy is achieved.
2. Ongoing training of subrecipients may be required due to turnover of subrecipient employees or staff resource limitations attributable to budget constraints.

25. ARRA funds are used transparent to the public and the public benefits of these funds reported clearly, accurately, and in a timely manner.

Status:

1. The Energy Commission's CARS application and supporting processes enable timely reporting to the OCIO. The OCIO submits data for the entire state to the OMB, in accordance with ARRA requirements.

Potential risks:

2. CPMs managing ARRA block grants are managing two to three times their normal project load. There are two CPM unfilled vacancies and no open requisitions for additional staff due to State budget constraints. There is risk in ensuring that CPM reviews of ARRA monthly reporting by subrecipients can meet the time requirements for submission to the OCIO, and that data are accurate.

C. Human Capital

26. Standards exist and are enforced that mandate hiring the most qualified individuals based on skills, knowledge and experience, and evidence of integrity and ethical behavior.

Status:

1. The Energy Commission's existing hiring practices meet these standards.

Potential risks:

1. The Commission is filling existing CPM vacancies. If additional resource needs for ARRA projects are identified in the future there may be inadequate lead time to develop, advertise and place the position with highly qualified personnel.

27. The Energy Commission has identified qualified personnel to oversee the ARRA funds.

Status:

1. Individuals were identified based on their known skill set and leadership ability to lead each functional area to administer the ARRA funds.

Potential risks:

1. As the ARRA programs move from solicitation and contract development to subrecipient implementation, leadership should be evaluated to ensure that the Energy Commission is meeting ARRA needs.

Potential risks *(continued)*: 2. Senior level Commission managers who supervise CPMs must be actively involved in providing direction and oversight to ensure the consistency and timeliness of CPM tasks in meeting ARRA requirements.	
28. The Energy Commission has sufficient level of personnel to manage the ARRA programs (for instance, Grant, Contracting, Financial Management, and IT personnel).	Yellow
Status: 1. The budget for ARRA projects included the addition of 14 staff, 9 on a limited term basis (which expire June 2011) and 5 on a permanent basis. Most of the ARRA work is performed by redirecting work of existing personnel, reliance on some overtime, use of retired annuitants and by moving ARRA projects to the highest priority. 2. Most individuals record time spent on ARRA projects using special ARRA Project Cost Accounting (PCA) codes in the CALSTARS system. However, some positions (e.g. selected human resources and contracts staff) do not record their ARRA time to ARRA PCA codes. The summary report generated from CALSTARS data shows the equivalent of 39 person months were reported for the period from July 1, 2009 through May 31, 2010. Potential risks: 1. Redirecting staff to complete ARRA-related tasks creates a risk that other Commission projects will not be completed as originally anticipated. 2. CPMs managing ARRA block grants are managing two to three times their normal project load. There are only two CPM vacancies in the process of being filled, and there are no open requisitions for additional staff due to State budget constraints. There is risk in ensuring that all ARRA requirements are met by subrecipients and that the CPMs can meet the time requirements for reviewing and approving subrecipient submissions. 3. Steps being taken to expedite the execution of grants, loans and contracts by sending the contract for signature to the subrecipient and DGS at the same time will increase the workload of Grants & Loans, Contracts and Legal if there are changes to the agreement by one party or the other. 4. An increase in the volume of loans serviced by the Commission would increase the workload of Grants & Loans.	
29. The appropriate personnel are empowered to make decisions and administer the ARRA programs.	Green
Status: 1. The ARRA Principals is the cross-division management team leading ARRA program implementation. The team meets weekly to address and resolve issues related to ARRA implementation. Potential risks: 1. Energy Commission personnel must have a clear understanding of the communication channels for decisions and the approval process. If the path is not clear, decisions may be delayed or be executed with the necessary approvals. 2. Clear communication between the ARRA Principals and the Ad Hoc Committee must be maintained, or timely Commission approvals and ARRA funding could be delayed.	
30. Program officials have identified new or ongoing performance management requirements to address necessary requirements under ARRA.	Yellow
Status: 1. The Energy Commission entered into a Monitoring, Verification and Evaluation agreement with a contractor to provide performance evaluation and reporting capabilities of ARRA subrecipients.	

Potential risks: 1. If ARRA disbursements are made ahead of completing work on the development of key performance metrics, there is a risk of noncompliance with ARRA.	
31. Staff are capable of undertaking a comprehensive risk assessment to identify the key risks to program objectives.	
Status: 1. The Energy Commission entered into a Program Support Services agreement with a contractor to provide guidance on risk assessment. 2. Initial interviews with Commission personnel have included insightful assessments of that person's specific areas of responsibility. 3. The Financial Integrity and State Manager's Accountability Act (FISMA) report as of December 31, 2009 included an overall assessment of key strategic issues with ARRA funding. Potential risks: 1. The contractor needs to ensure that the risk assessment captures the working knowledge of key Commission personnel. 2. If ARRA disbursements are made ahead of a complete risk assessment and the establishment of risk mitigation procedures, there is a risk of noncompliance with ARRA.	
32. If necessary, available alternative staffing tools are being effectively utilized to support the timely implementation of the ARRA.	
Status: 1. Most ARRA work is performed by redirecting work of existing personnel, reliance on some overtime, use of retired annuitants and by moving ARRA projects to the highest priority. 2. Up to 14 additional permanent and limited term positions were authorized to assist with ARRA. 3. The Energy Commission entered into a Program Support Services agreement and entered into a Monitoring, Verification and Evaluation agreement with contractors to provide guidance on risk assessment and performance evaluation and reporting capabilities. Potential risks: 1. Experienced personnel must be effectively leveraged with the introduction of new employees to ensure the team has the requisite knowledge and experience base or inconsistent and improper decisions and approvals could occur.	
D. Grants/Loans/Contracts	
33. Processes are in place to ensure funds are awarded to subrecipients in a prompt, fair, and reasonable manner.	
Status: 1. A competitive bid process is used to award ARRA funds. A process is in place for applicants to contest award decisions. 2. It has taken several months to ensure that ARRA requirements were properly implemented for solicitations and awards. At this time, processes are in place to ensure that funds are awarded in a prompt, fair and reasonable manner. The Commission identified and corrected ARRA omissions in the initial loan agreements through an amendment to the original loan agreements. 3. Initial awards were not as prompt as originally anticipated because the Energy Commission had to incorporate new and modified guidance from the DOE over a period of time into the solicitation and contract process. The Commission also had to adapt existing policies and procedures for the nuances of ARRA requirements.	

Potential risks:

1. CPMs work primarily in several units of two Energy Commission Divisions – Energy Efficiency & Renewables and Fuels & Transportation. Communications on ARRA requirements are distributed from Legal to the unit heads, who distribute the information to the CPMs. This decentralized structure can increase the risk of some CPMs not being fully informed and adversely impact the final decision of awarding a contract, grant or loan.
2. The Commission has not fully documented processes for evaluation of the appropriateness of the project or creditworthiness of the applicants. This increases the risk of incomplete, inconsistent or inappropriate approvals of loans or projects under the ARRA grant and loan programs.

34. Adequate training related to ARRA requirements and fraud, waste, mismanagement, and abuse is provided to subrecipients if needed.

Status:

1. CPMs have been educating subrecipients about ARRA requirements through notices, Webinars with the DOE and answering subrecipient questions.
2. The grant, loan and contract agreements require a "kick-off" meeting between the CPM and the subrecipient that includes a discussion of all ARRA requirements to ensure that the subrecipients understand ARRA requirements.
3. The Energy Commission requires training for subrecipients about ARRA reporting. A "Checklist of Requirements and Responsibilities For all ARRA Grant and Loan Recipients" is being developed to remind subrecipients of specialized reporting required under their grant or loan.

Potential risks:

1. The Commission mailed approximately 125 block grant agreements to subrecipients for signature. There is a concerted effort to have the subrecipients execute the agreements as soon as possible (DOE staff are calling subrecipients weekly.) If the agreements are promptly executed, there will be a rapid increase in subrecipient training needs.
2. The kick-off meeting is being conducted in a Webinar format for multiple grantees instead of a one-on-one discussion of requirements. This could lead to inconsistent training absorption across grantees.
3. CPM management believes that CPM monitoring of subrecipients should include visits to certain subrecipient sites. Until the State budget is passed, there may be limited staff conducting site monitoring, increasing the risk of inadequate on-site monitoring and training, possibly resulting in noncompliance with ARRA requirements with some subrecipients.

35. The Energy Commission is aware of, and has appropriation for, any state matching requirements of the award and has a process in place to ensure that funds are expended within the timeframe of the ARRA requirements.

Status:

1. There are no state matching requirements to ARRA funding.
2. The Commission is now moving expeditiously to obligate and expend funds in full compliance with the ARRA requirements; however, a small amount of funds have actually been expended.
3. To ensure compliance with ARRA requirements, the Commission is deploying substantial resources to meet the DOE guidance document timeframe for obligating funds.

Potential risks:

1. The Commission is continuously challenged to simultaneously distribute ARRA funds promptly, while avoiding fraud, waste, and abuse of ARRA funds. Commission ARRA programs are at risk of not being fully obligated by required deadlines, for a variety of reasons, some of which are external to the Commission itself.

36. Controls are in place to ensure funds are used for authorized purposes only and instances of fraud, waste, error, and abuse are minimized and/or mitigated.	
Status: 1. All ARRA contracts provide for payment to subrecipients after the subrecipient pays the vendor for completion of work. Some subrecipients have told the Commission that they are unable to pay the vendors prior to receiving ARRA funds. A recent Energy Commission resolution modified EECBG contracts to allow payment based on "sufficient evidence of cost incurred" (e.g. vendor invoices). 2. CPMs are technically knowledgeable about the work to be performed in each contract and the cost of performing that work. CPMs are responsible for reviewing and approving all subrecipient claim submissions for payment. Subrecipients must submit both invoices of the work performed and a progress report. CPMs evaluate the submission for compliance with the agreement (i.e., work completed, budgeted cost, schedule). Issues are addressed with the subrecipient and approved amounts are sent to Grants & Loans or Contracts for final review prior to submission to Accounting. 3. Grants & Loans or Contracts staff validates labor rates in the invoice to the contract/grant/loan agreement and confirms that all expenses have supporting receipts. 4. Legal staff will be engaged if there are situations identified for investigation. However, specific communication channels and processes for ARRA issues have not been fully documented. 5. The Energy Commission entered into an agreement with a contractor to assist with onsite visits and evaluation of projects to identify possible fraud, waste or abuse. Potential risks: 1. The modification to EECBG agreements to allow payment based on "sufficient evidence of costs incurred" rather than amounts expended (i.e., advanced funding) by subrecipients increases the risk of nonperformance and the risk of fraud, waste or abuse. 2. Without an approved State budget, some travel expenses are not reimbursable. This may limit the ability of CPMs to perform site visits. This risk may be partially mitigated by the contractors engaged to perform site visits. 3. Increasing reimbursement requests in the coming months could put pressure on the CPM review process, delaying disbursement of funds and reducing the effectiveness of internal controls. 4. Prompt payment of reimbursement requests requires prompt information flow between CPMs and Grants & Loans or Contracts, which has not always been the case for prior Commission programs. 5. Expediting payments could weaken the effectiveness of controls and procedures designed to prevent fraud, waste and abuse. 6. Some commercial loan subrecipients may not be in a financial position to repay loans.	
37. Controls are in place to ensure projects funded under ARRA avoid unnecessary delays and cost overruns.	
Status: 1. CPMs are responsible for assisting the subrecipients to avoid unnecessary delays, cost overruns and scope changes related to completion of the project. 2. CPMs are responsible for tracking project status and costs. In addition the CPM assesses the progress of the project as compared to the funding sources. 3. Grants & Loans or Contracts procedures include specified timelines for processing subrecipient payment submissions to avoid unnecessary delays of payment.	

Potential risks:

1. CPMs are not fully trained on ARRA requirements.
2. CPMs managing ARRA block grants are managing two to three times their normal project load. There are two CPM vacancies to fill and no open requisitions for additional staff due to State budget constraints. There is risk in ensuring that all ARRA requirements are met by subrecipients and that the CPMs can meet the time requirements for reviewing and approving subrecipient submissions.
3. Grants and loans are fixed amounts so there is no risk of cost overrun from the ARRA funding source. The risk is that funds provided through the grant, loan or contract are not adequate to cover the full cost of the project and the subrecipient does not have additional resources necessary to completely fund the project. The effective monitoring of the monthly progress report, augmented by calls, emails and site visits, is important to the CPMs' assessment of project progress, performance and ARRA compliance.
4. The volume of contracts that will begin shortly could put pressure on the CPM review process, putting at risk CPMs' abilities to respond to subrecipients on a timely basis and to identify instances of fraud, waste and abuse.
5. Subrecipient information could contain inaccuracies as to the progress on the project or about the types of expenditures made, which may not be detected prior to incurring cost overruns or misuse of funds.

38. Processes are in place to identify any performance issues with regards to (potential) funding subrecipients. Where necessary, follow up actions to address the performance issues are taken.

Status:

1. CPMs are available to answer questions of subrecipients before or during implementation of their ARRA projects, so potential performance issues can be identified and proactively addressed. In addition, CPMs review subrecipient submissions on project progress and payment requests, which enables them to identify performance issues. CPMs are the primary contact for subrecipients, The Energy Commission withholds payment to subrecipients with performance issues until the issues are resolved.
2. The Energy Commission entered into a Program Support services agreement with a contractor to assist in site visits and project progress evaluations, and to develop training materials and train CPMs on project monitoring techniques.
3. The Energy Commission entered into a Measurement, Verification, Evaluation, and Reporting agreement with a contractor to assist with energy issues and impacts.

Potential risks:

1. CPMs managing ARRA block grants are managing two to three times their normal project load. There are two CPM unfilled vacancies and no open requisitions for additional staff due to State budget constraints. There is risk in ensuring that all ARRA requirements are met by subrecipients and that the CPMs can meet the time requirements for reviewing and approving subrecipient submissions.
2. The volume of subrecipient reimbursement requests may exceed the capacity in the CPM organization, putting at risk their ability to identify and manage performance issues.
3. There is no standard system for CPMs to track subrecipient project schedules and status, increasing the risk of missing a problematic situation.
4. Subrecipients have not yet been risk-assessed to determine their level of knowledge, sophistication and financial risk.
5. If problematic subrecipients are not identified in a timely basis, proper oversight will not occur with ARRA funding at risk.

39. There is a strategy to evaluate the credibility and completeness of cost and schedule estimates.	
Status: 1. With respect to the block grants and ECAA 1% loans, CPMs have extensive experience working with local agencies on energy projects, providing perspective from which to judge cost and time estimates. In addition, CPMs started to work with many local agencies in advance of the ARRA solicitation to define local agency projects and evaluate costs and schedules. 2. Other SEP programs will follow the model developed for monitoring costs and schedule estimate of block grants and the ECAA 1% loans, modified for the SEP program nuances. Potential risks: 1. If there is inadequate monitoring or inadequate resources to perform site visits, there could be situations where issues are not identified on a timely basis and ARRA requirements are not met. 2. In the initial assessment of the some grant projects and the loans, validation procedures were not applied consistently to validate the assumptions on energy savings and ability to repay loan proceeds. 3. The Energy Commission does not have a strong historical track record from other programs of collecting on problem loans to commercial entities.	
40. A strategy is in place to oversee grantee contract management as it pertains to the ARRA.	
Status: 1. CPMs, Legal, Grants & Loans and Contracts staff have been working together on ARRA solicitations and contract development for many months. Grants & Loans or Contracts and Legal believe that the process to manage subrecipient contracts is in place and working. Additional ARRA requirements are being highlighted in the "Checklist of Requirements and Responsibilities For all ARRA Grant and Loan Recipients." 2. The CPM team is developing processes for the review and approval of all ARRA requirements based on information submitted by subrecipients. Training for CPM oversight and project management is to be completed in the near term. 3. Pre-award site visits did not occur for all grantees to assess their contract management skills. Potential risks: 1. With decentralized ARRA monitoring, contract management responsibilities may be inconsistently applied. 2. Limited time and travel resources may limit an effective up-front assessment of grantee contract management potentially resulting in some grantee problems as the project progresses. 3. Energy Commission divisional units may perceive that procedures or monitoring activities are being performed by another department or office, when this responsibility rests with them.	
41. The Energy Commission is timely in taking action to suspend and debar individuals or firms that have defrauded the government.	**N/A**
The Energy Commission has not identified any such situations.	
42. There is a process in place to address performance issues with current or potential funding subrecipients.	
Status: 1. CPMs are available to answer questions of subrecipients before or during implementation of their ARRA projects allowing CPMs to proactively address potential performance issues. In addition, CPMs review subrecipient submissions on project progress and payment requests, which enables them to identify performance issues. CPMs are the subrecipients' primary point of contact in the Energy Commission.	

Status *(continued)*:

2. The Commission withholds payments to subrecipients with performance issues until the issues are resolved.
3. The Energy Commission has signed a contract with two contractors for assistance in site visits and project progress evaluations.

Potential risks:

1. CPMs managing ARRA block grants are managing two to three times their normal project load. There are two CPM unfilled vacancies and no open requisitions for additional staff due to State budget constraints. There is risk in ensuring that all ARRA requirements are met by subrecipients, that the CPMs can meet the time requirements for reviewing and approving subrecipient submissions, and that performance issues are identified on a timely basis.
2. The volume of contracts that will begin shortly may put pressure on the CPM review process, limiting the effectiveness of controls and procedures intended to identify and manage performance issues.
3. There is no standard system for CPMs to track subrecipient project schedules and status, increasing the risk of missing a problematic situation.
4. Subrecipients have not yet been risk assessed to determine their level of knowledge, sophistication and financial risk.
5. If problematic subrecipients are not identified in a timely basis, proper oversight will not occur with ARRA funding at risk.
6. Applicants for CEBF loans are reliant on venture capital or development of profitable operations to generate sufficient working capital to meet loan payments as they become due. The Commission has not identified specific processes for ensuring repayment.

E. Procurement

43. Requests for Proposals (RFPs) issued under ARRA initiatives contain the necessary language to satisfy the requirements of the ARRA. (Rating: green)

Status:

1. Energy Commission Legal staff works with DOE and DOL to ensure that RFPs include provisions that comply with the ARRA requirements. Modifications clarifying the requirements have been included in addendums to existing contracts, grants or loans and in new agreements not yet executed.

Potential risks

1. DOE was not providing guidance on all energy requirements prior to the Commission releasing RFPs, and DOL has not provided all classifications related to Davis-Bacon Act wage determination. To mitigate this risk, Legal staff included a clause in subrecipient agreements that allows for modifications to agreement terms resulting from further ARRA, DOE or DOL clarifications.

44. Processes are in place to ensure contracts are awarded in a prompt, fair, and reasonable manner. (Rating: yellow)

Status:

1. The Energy Commission uses a competitive bid process to solicit and evaluate proposals and to award ARRA funds. The Commission's process allows applicants to contest award decisions.
2. It has taken several months to ensure that ARRA requirements were properly implemented for solicitations and awards. At this time, processes are in place to ensure that funds are awarded in a prompt, fair and reasonable manner. The Commission identified ARRA omissions in the initial loan agreements and corrected the omissions through an amendment to the original loan agreements.
3. Initial awards were not as prompt as originally anticipated because the Commission had to incorporate new guidance from the DOE into the solicitation and contract process, and the Commission had to adapt existing policies and procedures to reflect nuances of ARRA requirements.

Potential risks: 1. CPMs work in several units of two Commission Divisions – Energy Efficiency & Renewables and Fuels & Transportation. Communications on ARRA requirements are distributed from Legal to the Department heads, who distribute the information to CPMs. This decentralized structure can increase the risk of some CPMs not being fully informed and adversely impact the final decision of awarding a contract, grant or loan. 2. The Commission has not fully documented processes for evaluation of the appropriateness of the project or creditworthiness of the applicants. This increases the risk of incomplete, inconsistent or inappropriate approvals of loans or projects under the ARRA grant and loan programs.	
45. New contracts awarded using ARRA funds contain all specific terms and clauses required.	
Status: 1. Legal staff is working with CPMs, Grants & Loans and Contracts, and with the DOE and DOL to ensure that the contracts and loan documents comply with ARRA requirements. At this time, all grant, contract and loan agreements incorporate all known required specific terms and clauses. Because there may be additional guidance on ARRA requirements from federal agencies, all grant, contract and loan agreements contain provisions that allow the terms and conditions to be updated based on such guidance. An amendment to the ECAA 1% loan agreement addressed deficiencies in the original agreement to clearly define Davis-Bacon Act and other ARRA requirements. Potential risks: 1. Limited Legal resources could create delays in implementing future changes to terms and clauses for ARRA. 2. Legal may not be promptly informed of additional regulations or changes to ARRA by federal agencies.	
46. Consideration is given to contract financing that minimizes risk, such as payments based on interim/partial deliverables, milestones, and percent of completion.	
Status: 1. Current contract provisions allow subrecipients to be reimbursed for amounts actually expended. This provision minimizes the risk of nonperformance under the contract and the risk of fraud, waste or abuse. Under a recently approved Energy Commission resolution, EECBG subrecipients are able to submit claims for cost reimbursements on the basis of "sufficient evidence of cost incurred" (e.g., vendor invoice). 2. CPMs will have limited time to perform site visits to assess accuracy of each project's percentage of completion. This may be partially mitigated by the Commission's agreement with a contractor to assist with monitoring and performance evaluations. Potential risks 1. The modification to EECBG agreements to allow payment based on "sufficient evidence of costs incurred" rather than amounts expended (i.e., advanced funding) by subrecipients increases the risk of nonperformance and the risk of fraud, waste, or abuse.	
47. Controls are in place to ensure funds are used for authorized purposes only, and the potential for fraud, waste, error, and abuse minimized and/or mitigated.	
Status: 1. Legal staff will be engaged if there are situations requiring investigation. 2. CPMs are technically knowledgeable about the work to be performed on each contact and the cost of performing that work. CPMs are responsible for reviewing and approving all subrecipient claim submissions for payment. Subrecipients must submit both invoices of the work performed and a progress report. CPMs evaluate the submission for compliance with the agreement (i.e. work completed, budgeted cost, schedule). Issues are addressed with the subrecipient and approved amounts are sent to Grants & Loans or Contracts for final review prior to submission to Accounting. 3. Grants & Loans or Contracts staff validates labor rates in the invoice to the contract/grant/loan agreement and confirms that all expenses have supporting receipts.	

Potential risks:

1. The proposed modification to grant agreements allowing payments based on costs incurred ("advanced funding") rather than amounts expended by subrecipients increases the risk of nonperformance and the risk of fraud, waste or abuse. The proposal includes some risk mitigation by requiring subrecipients to provide the Energy Commission with their subsequent proof of payment to the contractor.
2. CPMs are not fully trained in the responsibilities imposed by ARRA. The number, size and complexity of each project could challenge CPM abilities to effectively and efficiently manage each grant, loan or contract and to detect and mitigate instances of fraud, waste and abuse. This risk will be partially mitigated with monitoring training to be provided by the Program Support Services vendor under contract with the Commission.
3. Without an approved State budget, some travel expenses are not reimbursable. This may limit the ability of CPMs to perform site visits to confirm project performance and compliance. This risk may be partially mitigated by the two contractors that will be completing subrecipient site visits.
4. Increasing subrecipient reimbursement requests in the coming months could put pressure on the CPM review process, delaying disbursement of funds and reducing the effectiveness of internal controls.
5. Prompt payment of subrecipient reimbursement requests requires prompt, information flow between CPMs and Grants & Loans or Contracts, which has not always been the case for prior Commission programs.

48. Contracts are written to mitigate risks in scheduling delays, cost overruns, and performance risks. Contract requirements should have measureable outcomes consistent with the ARRA.

Status:

1. Contracts have specific deliverables that are consistent with ARRA. Subrecipients are required to submit required deliverables to CPMs each month and on scheduled milestones.
2. Grant, loan and contract amounts are fixed price. Cost overruns would be borne by the subrecipient which may result in the subrecipient's inability to complete the project or use substandard equipment and materials.
3. The Energy Commission engaged a contractor to assist in the evaluation of subcontractor performance.

Potential risks

1. The Commission has not fully defined the responsibilities for reviewing the documentation related to ARRA requirements, nor the scope of each review. This could lead to inconsistent, and potentially incorrect, conclusions by different CPMs.
2. The process for ensuring that information is routed to the responsible party after receipt by the CPM is not finalized.

49. Consideration is given to utilizing contracts with flow down provisions, which require the initial contractor, in subcontracting any of its performance, to legally bind its subcontractors to perform and make such subcontractors subject to all the duties, requirements, and obligations of the contractor under the contractor's agreement with the Energy Commission, including those ARRA provisions and other federal and state requirements. Contracts may also make the contractor jointly and severally liable for all performances under the agreement including the performance of subcontractors in making assurances and filing reports.

Status:

1. All contracts for projects funded by ARRA have these provisions. Subcontractors invoice through the subrecipients.
2. If CPMs believe that the performance under the contract is inadequate, the Commission can require that the performance issue be corrected prior to payment.

Potential risks:

1. Ineffective project management and monitoring could result in noncompliance with ARRA provisions.

50. Ensure all bids/proposals require the inclusion of information on the contractors' own internal controls, risk management, and performance indicators. The Energy Commission has protocols in place to independently determine the same information.	Red
Status: 1. RFPs include an attachment that solicits information about internal controls of the subrecipient. For small cities and counties, an annual audit is required in accordance with the Single Audit Act. 2. Fourteen block grant subrecipients are currently out of compliance with the audit requirement. Grants & Loans staff are following up with these subrecipients, and will require that each subrecipient demonstrate compliance before the Commission approves funding. 3. The Commission did not independently validate performance indicators for energy savings presented on the block grant applications due to the time constraints and limited CPM resources. Potential risks: 1. If subrecipient internal controls, risk management, and performance tracking are not adequate, there could be increased risk of fraud, waste, or abuse.	
51. The Energy Commission has a process to review potential contractors for past compliance issues and identify any performance issues. Follow up actions are taken, as necessary, to address the performance issues.	Green
Status: 1. State government codes 10367 and 10369 require that a performance evaluation of each contract be completed. The database of the evaluations is maintained by the Department of General Services (DGS). Contractors who have performed work for the State and have had performance issues can be readily identified. Grants & Loans or Contracts staff perform a check on the DGS database during each contract review. Potential risks: 1. If controls are ineffective in the early identification of high risk contractors, the Commission could have disallowed costs.	
F. Financial	
52. The Energy Commission has established separate accounting codes to ensure ARRA funds are clearly distinguishable.	Green
Status: 1. The Energy Commission accounts for ARRA revenues under separate PCA codes in CALSTARS, the State's accounting system. 2. There are separate PCA codes for expenditures and costs related to ARRA projects in CALSTARS. These codes are used to track expenditures and staff time to ARRA projects by each of the ARRA funded energy programs. 3. Commission staff record time spent on ARRA activities on their monthly timesheets, by PCA code. 4. The State Controller's Office has separate accounting within its fiscal system to segregate for ARRA funds for the SEP. Potential risks: 1. Reporting of staff time spent on ARRA is incomplete because not all individuals working on ARRA account for their time each month using ARRA PCA codes. 2. There is the potential for error resulting from the manual entry process.	

53. Controls are in place to ensure that ARRA funds are deposited into separately distinguishable accounts and not commingled with other Energy Commission funds.	
Status: 1. The Commission established and uses separate revenue codes for each source of ARRA funds (the four energy programs funded by ARRA). 2. There is a process to reconcile the financial statements of the State Controller with the Commission's accounting records, which the Commission follows. Potential risks: 1. Without proper accounting, ARRA funds could be subject to return to the Federal government.	
54. Internal controls are in place and sufficient to mitigate the risks of fraud, waste, and abuse.	
Status: 1. The Energy Commission maintains internal controls to mitigate risks of fraud, waste and abuse for all of its programs, including the ARRA funded energy programs. 2. CPMs are technically knowledgeable about the work to be performed in each contract and the cost of performing that work. CPMs are responsible for reviewing and approving all subrecipient claim submissions for payment. Subrecipients must submit both invoices of the work performed and a progress report. CPMs evaluate the submission for compliance with the agreement (i.e., work completed, costs incurred, budget remaining, adherence to the schedule). CPMs address issues with subrecipients and submits approved amounts are sent to Grants & Loans or Contracts staff for final review prior to submission to Accounting. 3. Grants & Loans or Contracts staff validates labor rates in the invoice to the contract, grant or loan agreement and confirms that all expenses have supporting receipts prior to submission to Accounting staff. Potential risks: 1. Increasing subrecipient reimbursement requests in the coming months could put pressure on the CPM review process, delaying disbursement of funds and reducing the effectiveness of internal controls. 2. Prompt payment of reimbursement requests requires prompt, information flow between CPMs and Grants & Loans or Contracts, which has not always been the case for prior Commission programs. 3. CEBF subrecipients may not be in a financial position to repay loans. 4. The volume of subrecipient reimbursement requests will increase significantly in the near term. In addition, payments for ARRA projects are likely to be expedited to meet federal requirements for obligating funds. Internal controls that have been sufficient to mitigate risks of fraud, waste and abuse previously should be examined and tested to ensure that they will remain effective in the ARRA environment. 5. CPMs are not fully trained in the responsibilities imposed by ARRA. The number, size and complexity of each project could challenge CPM abilities to effectively and efficiently manage each grant, loan or contract and to detect and mitigate instances of fraud, waste and abuse. This risk will be partially mitigated with monitoring training to be provided by the Program Support Services vendor under contract with the Commission.	

55. The Energy Commission has identified the need for and risks associated with new processes established for ARRA.	Rating

Status:

1. Accounting, Grants & Loans, Contracts and Legal staff are using existing Commission processes to implement ARRA programs.
2. The ARRA monitoring requirements require new and consistent project management processes for routing of ARRA information and for authorization to approve certain subrecipient submissions. These processes are under development.
3. The Commission established ARRA Section 1512 reporting processes and procedures, and the CARS application accumulates data elements collected each month for subrecipients and submitted at least quarterly to the DOE and OMB.

Potential risks

1. The volume of subrecipient reimbursement requests will increase significantly in the near term. In addition, payments for ARRA projects are likely to be expedited to meet federal requirements for obligating funds. Internal controls that have been sufficient to mitigate risks of fraud, waste and abuse previously should be examined and tested to ensure that they will remain effective in the ARRA environment.
2. CPMs managing ARRA block grants are managing two to three times their normal project load. There are two CPM unfilled vacancies and no open requisitions for additional staff due to State budget constraints. There is risk in ensuring that all ARRA requirements are met by subrecipients and that the CPMs can meet the time requirements for reviewing and approving subrecipient submissions.

56. Senior leadership for the Energy Commission has assessed people, processes, and technology to determine where to deploy and coordinate resources to meet the demands of obligating funds for ARRA.

Status:

1. The majority of ARRA work is performed by redirecting existing staff resources and by moving ARRA projects to the highest priority in the daily workload.
2. Commission departments are modifying existing processes to meet the demands of obligating funds for ARRA. The processes for awarding funds are in place. Key project management approaches and processes for monitoring and paying subrecipients are currently under development.

Potential risks:

1. The increase in Energy Commission workload created by ARRA, coupled with non-ARRA projects, increases the risk that the Commission will not be able to complete all work in a timely manner.
2. If processes for monitoring and paying subrecipients are not in place before the first significant wave of subrecipient submissions, there is an increased risk of fraud, waste and abuse.
3. CPMs are not fully trained in the responsibilities imposed by ARRA. The number, size and complexity of each project could challenge CPM abilities to effectively and efficiently manage each grant, loan or contract and to detect and mitigate instances of fraud, waste and abuse. This risk will be partially mitigated with monitoring training to be provided by the Program Support Services vendor under contract with the Commission.
4. Energy Commission personnel will be responsible for servicing some loans. The Commission must evaluate policies and procedures need to ensure compliance with ARRA requirements.

G. Information Technology Services	
57. Financial and operational systems are configured to manage and control recovery funds.	

Status:

1. Systems and databases used in ARRA projects include: California ARRA Reporting System (CARS), Program Information Management System (PIMS), a Grants and Loans database, a Contracts database, a Budget/Accounting database, and the California State Accounting and Reporting System (CALSTARS).
2. All systems are operational. The state is in the midst of a project to replace the antiquated CALSTARS application because of a number of significant operating, maintenance, upgrade, performance, and usability issues with this legacy system. The Energy Commission's Grants and Loans database is somewhat difficult to maintain and use. Although the Commission has identified improving the Grants and Loans database as an IT maintenance project, efforts to do so are delayed.

Potential risks:

1. Systems and databases are standalone, and interfaces between the databases are either cumbersome or non-existent. Information could be erroneously summarized from one system for input to another.
2. The lack of robust system interfaces increases the time required by Commission staff to generate reports and analyses of ARRA programs.
3. PIMS provides functionality for tracking project-level budgets and expenditures, but lacks other project-level tracking capabilities. The workflows supported by PIMS work well for one of the Commission's operating divisions, but may be more difficult to accommodate different workflows of two other Commission divisions who are receiving ARRA funds. CPMs required to use PIMS to track ARRA-funded projects have not all been fully trained in the use of PIMS to manage and control recovery funds.
4. PIMS does not provide loans administration functionality. If system support for loans administration is not fully implemented, there is a risk to efficiently meet the requirements of ARRA loan programs.

58. Financial and operational systems can support the increase in volume of contracts, grants and loans as a result of ARRA.

Status:

1. Contracts database, and Grants & Loans database, track different components of ARRA requirements, programs, and projects. These information systems are stable and generally meet the business needs of the Commission.
2. PIMS does not currently have all the functionality to effectively and efficiently track contract management requirements of ARRA funded projects in each of the energy programs.
3. Program staff developed their own processes, and each interact with IT administration without standardization.
4. The Commission has evaluated improvements to PIMS, and has approved a feasibility study report to enhance PIMS and create a commission-wide enterprise project tracking system.

Potential risks:

1. The Energy Commission has lost experienced information technology staff developers for four of the primary information systems: budgets, contracts, grants and loans, and PIMS. The Commission does not have a sufficient number of IT subject matter experts or staff to support current systems. Several positions are vacant, including the Commission's Chief Information Officer.
2. The multiple databases that support ARRA project management are not well integrated and IT has lost the developers for all four primary systems. Delays in making required modifications needed to efficiently support ARRA projects management inhibits the systems from efficiently and effectively supporting the substantial influx of new ARRA projects.

Potential risks *(continued)*:

3. Business processes, workflows, administrative support operations, and contract types vary widely among the Commission's operating divisions. Modifying PIMS to support more than the single division now supported could take longer than expected, which would delay its use and usefulness by CPMs assigned responsibility for ARRA projects
4. A shortage of IT staff who have the institutional knowledge of the Commission, its programs, and operating division workflows limits the Commission's ability to develop, test, and implement required modifications to existing databases and systems to support ARRA-funded projects.
5. The Commission has not yet fully trained CPMs on how to utilize PIMS for managing, tracking, and monitoring ARRA programs and projects. This could delay capturing and tracking needed enterprise-wide project management information for each contract, grant, and loan.
6. Without standardization among program groups, ineffective, inconsistent, or incomplete program or systems development could occur.

59. The appropriate data elements are identified that must be captured, classified, and aggregated for analysis and reporting to meet ARRA requirements.

Status:

1. The Energy Commission's CARS application supports the ARRA reporting process. The Commission identified data elements required for ARRA Section 1512 reporting as required fields that each subrecipient must submit to the Commission for uploading into CARS. The CARS application confirms that the subrecipient provided data for every ARRA required data element, and performs very limited validation of the data's reasonableness. Additionally the CARS application provides a report of subrecipient data status, and generates an automatic notification to any subrecipient who submitted a report that is missing any required data element. CPMs review the subrecipient data stored in CARS, and, if complete, indicate in CARS that a subrecipient's submission is complete. With the CPM approval, CARS uploads subrecipient data to the State's OCIO.
2. The Commission accounts for ARRA revenues and expenditures under separate PCA codes in the CALSTARS accounting system. Commission managers can request, view and download accounting reports for ARRA operations using these PCA codes as filters.
3. The State Controller's Office has separate accounting within its fiscal system to segregate for ARRA funds for SEP.

Potential risks:

1. CPMs managing ARRA block grants are managing two to three times their normal project load. There are two CPM vacant positions and no open requisitions for additional staff due to State budget constraints. There is risk in ensuring that CPM reviews of ARRA monthly reporting by subrecipients can meet the time requirements for submission to the OCIO, and that the data are accurate.
2. Improper use of PCA codes would create inaccurate reporting of ARRA revenues and expenditures.
3. Reporting of staff time spent on ARRA is incomplete because not all individuals working on ARRA account for their time on monthly timesheets for these PCA codes.

60. There is a strategy to ensure data quality and integrity from financial and operational systems.

Status:

1. The Energy Commission's information security protocol requires an end-user to enter a password in order to log into the Commission's network. End users also must enter another password to log into an individual information system or database. A single individual, and usually their direct supervisor, are provided the authority to grant rights to other Commission employees to access an individual information system. This structure generally protects the Commission's information resources from unauthorized access.

Potential risks:

1. The Commission's four primary information systems that would be used to support ARRA activities are not integrated. To exchange required data among the system, Commission staff manually create files (e.g., Word or Excel formats), and import these data files into another system. With the expected, large increase in transaction volumes from ARRA projects, there is an increased risk that erroneous data are introduced into an information system.

61. The current disaster recovery plan has been updated or modified for the new requirements and information systems related to ARRA.

Status:

1. The disaster recovery plan has not been updated or modified for new ARRA requirements. The plan effectively includes the information systems the Energy Commission is using to track ARRA projects.
2. All Commission information systems are routinely backed-up, and the existing disaster recovery plan describes recovery procedures.

Potential risks:

1. Without an updated disaster recovery plan for all financial and operational systems supporting ARRA funding, the ability to recover quickly, resume ARRA support, and provide timely reporting may be impaired.

H. Audit and Investigation

62. There is a process in place to ensure the Energy Commission is timely in addressing known internal control weaknesses.

Status:

1. The Commission does not have an internal audit function. In its December 2009 Financial Integrity State Manager's Accountability Act (FISMA) report, the Commission recognizes the need for review of its internal controls.
2. The Commission entered into a Program Services Support agreement with a contractor to conduct risk assessments and review internal controls.

Potential risks:

1. Given DOE timelines for fund disbursements, the Commission is moving forward with execution of subrecipient contracts and kick-off of subrecipient work. This work is being done before the completion of the risk assessment and review of internal controls.

63. The Energy Commission has corrected internal control weaknesses that have been identified during financial statement audits, programmatic audits, GAO audits, and Single Audit Act reviews, as well as other internal and external audits.

Status:

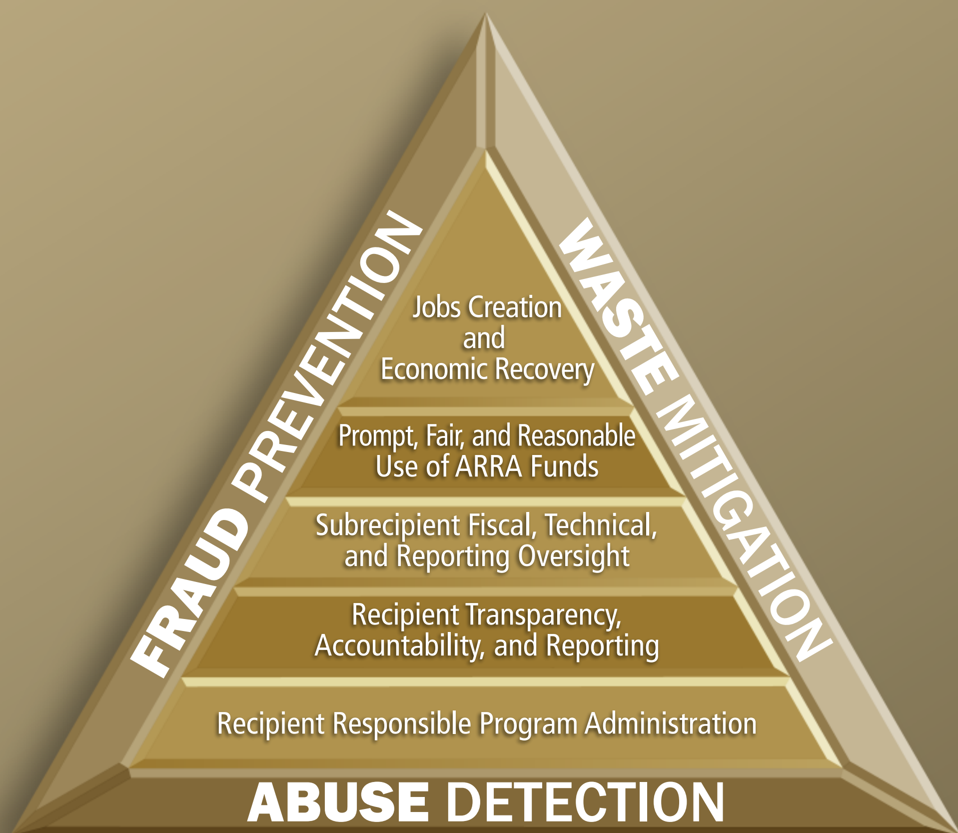
1. The Commission does not have an internal audit function. An audit was conducted by the California Department of Finance of the Commission's Renewable Resource Trust Fund for the year ended June 30, 2009. This audit identified one material internal control weakness related to reconciliation of asset accounts. The Commission has implemented procedures to reconcile the asset accounts. This fund is not related to ARRA funds, but is one of the largest funds the Commission administers.
2. The Energy Commission has a Program Services Support agreement with a contractor to conduct risk assessments and review internal controls.

Potential risks:

1. Given DOE timelines for fund disbursements, the Commission is moving forward with the execution of subrecipient contracts and kick-off of subrecipient work. This work is being done before the completion of the risk assessment and review of internal controls.

64. The Energy Commission has corrected any deficiencies, significant deficiencies, or material weaknesses identified through the assessments of internal controls.	
Status: 1. The Commission does not have an internal audit function. An audit was conducted by the California Department of Finance of the Commission's Renewable Resource Trust Fund for the year ended June 30, 2009. This audit identified one material internal control weakness related to reconciliation of asset accounts. The Commission has implemented procedures to reconcile the asset accounts. 2. The Commission entered into a Program Services Support agreement with a contractor to conduct risk assessments and review internal controls. Potential risks: 1. Given DOE timelines for fund disbursements, the Commission is moving forward with the execution of subrecipient contracts and kick-off of subrecipient work. This work is being done before the completion of the risk assessment and review of internal controls.	
65. Known instances of fraud, waste, and abuse have been mitigated in a timely manner.	
Status: 1. The Energy Commission is currently in the process of developing internal controls for the ARRA programs. 2. The Commission entered into a Program Services Support agreement with a contractor to conduct risk assessments and review internal controls. Potential risks: 1. Given DOE timelines for fund disbursements, the Commission is moving forward with the execution of subrecipient contracts and kick-off of subrecipient work. This work is being done before the completion of the risk assessment and review of internal controls.	
66. A process is in place to promptly resolve the previous audit findings identified that may impact the ability to successfully implement ARRA.	
Status: 1. The Energy Commission does not have an internal audit function. An audit was conducted by the California Department of Finance of the Commission's Renewable Resource Trust Fund for the year ended June 30, 2009. This audit identified one material internal control weakness related to reconciliation of asset accounts. The Commission has implemented procedures to reconcile the asset accounts. This audit finding does not impact the ability of the Commission to successfully implement ARRA. Potential risks: 1. Given DOE timelines for fund disbursements, the Commission is moving forward with the execution of subrecipient contracts and kick-off of subrecipient work. This work is being done before the completion of the risk assessment and review of internal controls.	
67. Identifying risks includes estimating the significance of the risk, the likelihood of the risk occurring, determining the appropriate action and assigning responsibility.	
Status: 1. The Energy Commission has a Program Services Support agreement with a contractor to conduct risk assessments and review internal controls. The contractor will identify the significance of the risk, the likelihood of the risk occurring, determine the appropriate action and assign responsibility. Potential risks: 1. Given DOE timelines for fund disbursements, the Commission is moving forward with the execution of subrecipient contracts and kick-off of subrecipient work. This work is being done before the completion of the risk assessment and review of internal controls.	

68. Senior management has developed plans to mitigate significant risks identified by mapping risks (including the risk of fraud) to control activities.	
Status: 1. The Energy Commission has a Program Services Support agreement with a contractor to conduct risk assessments and review internal controls. The contractor will make recommendations for mitigating significant risks. Potential risks: 1. Given DOE timelines for fund disbursements, the Commission is moving forward with the execution of subrecipient contracts and kick-off of subrecipient work. This work is being done before the completion of the risk assessment and review of internal controls.	
69. Risk assessments are conducted on a regular basis.	
Status: 1. The Energy Commission has a Program Services Support agreement with a contractor to conduct risk assessments and review internal controls. The contractor will make recommendations regarding ongoing risk assessments. Potential risks: 1. Given DOE timelines for fund disbursements, the Commission is moving forward with the execution of subrecipient contracts and kick-off of subrecipient work. This work is being done before the completion of the risk assessment and review of internal controls. 2. Risk assessments are not conducted on a regular basis.	



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