

BEFORE THE
CALIFORNIA CLEAN ENERGY JOBS ACT
CITIZENS OVERSIGHT BOARD

CALIFORNIA ENERGY
COMMISSION
1516 NINTH STREET
CHARLES IMBRECHT HEARING
ROOM
SACRAMENTO, CALIFORNIA
95814

FRIDAY, MAY 20, 2016

10:00 A.M.

Reported by
Peter Petty

APPEARANCES

BOARD MEMBERS PRESENT

Kate Gordon, Chair

James (Walkie) Ray, Vice Chair

David Dias, Board Member

Arno Harris, Board Member (Via WebEx)

Gary Kremen, Board Member

Chelina Odbert, Board Member

Steven Sakurai, Board Member

CEC STAFF PRESENT

Jack Bastida

ALSO PRESENT

Heather Baugh, Assistant General Counsel, California

Natural

Resources Agency

I N D E X

THE BOARD WILL CONSIDER AND MAY TAKE ACTION ON THE FOLLOWING ITEMS:

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2.	APPROVAL OF MINUTES FROM MARCH 29th, 2016 CITIZENS OVERSIGHT BOARD MEETING. (Board Chair Kate Gordon)	5
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5.	DISCUSSION AND POSSIBLE VOTE ON ENTERING INTO CONTRACT FOR INDEPENDENT AUDIT OF THE JOB CREATION FUND. Interagency contract for the State Controller's Office to perform an independent audit of the job creation fund. (Staff Member Jack Bastida)	10
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P R O C E E D I N G S

1
2 MAY 20, 2016

10:00 A.M.

3 CHAIR GORDON: Hi everybody, and welcome.
4 Welcome to our guest member here. So let's call the
5 meeting to order.

6 Jack, will you call roll, please?

7 MR. BASTIDA: Sure. Board Member Gordon.

8 CHAIR GORDON: Present.

9 MR. BASTIDA: Board Member Ray.

10 VICE CHAIR RAY: Present.

11 MR. BASTIDA: Board Member Dias.

12 BOARD MEMBER DIAS: Present.

13 MR. BASTIDA: Board Member Harris.

14 BOARD MEMBER HARRIS: Present.

15 MR. BASTIDA: Board Member Sakurai.

16 BOARD MEMBER SAKURAI: Present.

17 MR. BASTIDA: Board Member Kremen.

18 BOARD MEMBER KREMEN: Present.

19 MR. BASTIDA: Board Member Odbert.

20 BOARD MEMBER ODBERT: Present.

21 MR. BASTIDA: We have a quorum established.

22 CHAIR GORDON: Great. And welcome Gary by
23 phone. I will remember to call on you for comment
24 throughout the meeting.

25 BOARD MEMBER KREMEN: Thank you.

1 CHAIR GORDON: Absolutely.

2 We are moving on to Item 2, approval of
3 Minutes from the last meeting, which was a packed
4 meeting. So I don't know if people have had a chance
5 to look at the Minutes. Can I have a motion to
6 approve the Minutes or of course any motions to
7 amend or discuss.

8 BOARD MEMBER HARRIS: Question just for
9 clarification, which is I joined that meeting via
10 phone. I don't know if that's supposed to be
11 reflected in the Minutes or...

12 MR. BASTIDA: I can add that.

13 CHAIR GORDON: Does it matter?

14 MR. BASTIDA: No.

15 CHAIR GORDON: It doesn't matter
16 apparently.

17 BOARD MEMBER KREMEN: Jack, remember the
18 technical difficulties I was having?

19 MR. BASTIDA: That's true, yeah.

20 BOARD MEMBER KREMEN: So also amend on
21 that.

22 MR. BASTIDA: I can amend that as well.

23 CHAIR GORDON: Other than those small
24 technical issues are there any other questions or
25 concerns about the Minutes? Otherwise, can we have a

1 motion to --

2 BOARD MEMBER DIAS: Motion to approve as
3 amended.

4 BOARD MEMBER HARRIS: Seconded.

5 CHAIR GORDON: All in favor.

6 IN UNISON: Aye.

7 CHAIR GORDON: Anyone opposed? Any
8 abstentions? Great, that is passed. Thank you,
9 everybody. And thank you again for that meeting,
10 which was long and packed and very productive.

11 Let's see. All right, Item 3.

12 Oh, I just wanted to give a quick update to
13 the Board on the Citizen Oversight Board report to
14 the Legislature, just to say that it was submitted.
15 And you all got an email from Jack, I believe, with
16 the final version of it. It is up on the website.

17 We've gone back and forth a little about
18 how it's presented on the website. That website is a
19 little confusing but you can definitely find it on
20 the website; please direct people there if they want
21 to see it. There's both a huge version with all the
22 appendices, which is about 350 pages. And then
23 there's a version without the appendices.

24 We have not had -- I mean, there's nothing
25 to report in terms of response. I actually have not

1 heard anything, which is good. It was submitted, it
2 is at the Legislature, and we've performed that
3 duty, so there you are.

4 BOARD MEMBER ODBERT: Do we expect that we
5 would get a response, or not likely?

6 CHAIR GORDON: I thought we might get
7 something in the press because this committee has
8 been in the press a lot, but the whole thing was, I
9 think, fairly under the radar, it was just a day in
10 the week.

11 BOARD MEMBER ODBERT: Right.

12 CHAIR GORDON: And I have sent a link to
13 several people who have asked for it, but we haven't
14 heard anything directly.

15 VICE CHAIR RAY: You mentioned there's been
16 publicity about the committee.

17 CHAIR GORDON: Yeah.

18 VICE CHAIR RAY: Perhaps where I live it's
19 not quite as much. What kind of publicity have we
20 had, and where?

21 CHAIR GORDON: We haven't anything, as far
22 as I know, since the AP stories that we sent out to
23 everybody, which was last fall.

24 Really, I have a Google tracker on this
25 Commission and on Prop 39, which I recommend

1 actually doing, and it's mostly just stories about
2 school bids for projects. So that's basically what,
3 it's all very operational, so nothing significant
4 that I know of. I don't know if others have heard
5 anything.

6 But that was all I wanted to say other than
7 that Jack is starting to work with me and others,
8 Heather and others about a process for next year's
9 report and getting a template and getting a process
10 in place earlier and working with the CEC on getting
11 their reporting done earlier so that we can get
12 their report to us earlier and the whole thing can
13 just have a little more deliberation, which I think
14 we all would have appreciated and we have learned a
15 lot from and we will look forward to next year. So
16 we can report on that next meeting but we're just
17 starting to have those conversations.

18 Okay, now we get into the meat of this
19 meeting. Item 4, we are going to have a discussion
20 on the MOU between our Board and the CEC. We've
21 talked about this a bit. Jack is going to give an
22 update on where that stands.

23 MR. BASTIDA: All right. Hold on one
24 second, I'll just pull this up.

25 Okay. So just giving you an update on the

1 memo of understanding, it's going to be number four
2 in your binders there.

3 Hold on. That's better.

4 So last Tuesday the Energy Commission had
5 its business meeting to accept the Memo of
6 Understanding between the Citizen's Oversight Board
7 and the California Energy Commission.

8 A couple highlights from the Memo of
9 Understanding is that it establishes that the Energy
10 Commission and the Citizen's Oversight Board are two
11 separate entities. It makes it so that the Board can
12 enter into contracts and control its own funds, but
13 the Energy Commission has the duties to administer
14 those funds.

15 What this means in practical terms is that
16 when we go to sign our contracts, I go through the
17 Energy Commission's process for that. I submit the
18 proper paperwork. The Energy Commission contract
19 office helps me out. They have their lawyers look at
20 the contract and -- okay, they don't. So that'll be
21 a faster process.

22 The other main points of the MOU is
23 basically to make you guys have staff, mainly
24 myself, so that's spelled out in the MOU.

25 Other little things are processes for

1 getting reimbursement through the CEC. CEC provides
2 a webpage for the Board. All those things are
3 spelled out in the MOU.

4 So that was signed off and voted on
5 Tuesday, so the MOU is in effect now and we can
6 enter into contracts.

7 CHAIR GORDON: And just for clarification,
8 this isn't something we needed to vote on, it's just
9 an administrative matter that we just wanted to
10 update everybody on.

11 So thank you, Jack.

12 I realize that I didn't ask earlier if
13 anyone here from the public has items directly
14 related to any items on the agenda or whether you're
15 willing to wait until the public comment period. All
16 right. Shaking of head in the audience. Thank you.
17 We will have a public comment period at the end of
18 the agenda.

19 Okay. Thank you, Jack.

20 MR. BASTIDA: Yeah, thank you.

21 CHAIR GORDON: Item 5. This is probably the
22 biggest discussion today. This is discussion and
23 possible vote on entering into a contract for an
24 independent audit of the job creation fund.

25 As a reminder, our two major

1 responsibilities as a Board are our report to the
2 Legislature, which we just submitted and voted on
3 last meeting, and the audit of the fund which is
4 something we need a contract with, it's an
5 independent audit.

6 So I am going to have Jack give some
7 background on this. I will look to Vice Chair Walkie
8 Ray here and to Member Sakurai who have both been
9 very involved with Jack in thinking through this
10 issue, so just to ask both of you to weigh in where
11 you can, but I'll turn it to Jack to start this
12 discussion.

13 MR. BASTIDA: Alrighty. So this is the
14 scope of work basically for the contract for the
15 independent audit.

16 As you probably all know, besides the
17 annual report the Board needs to compile, the other
18 main task of the COB is the Commission review of an
19 annual independent audit of the job creation fund,
20 and to also select a number of completed projects to
21 assess the effectiveness of the expenditures in
22 meeting the objectives set forth in the provision
23 16.3.

24 So the scope of work lays out the objective
25 of the agreement. Well, first it talks about the

1 background, problem statement. Goes into the
2 objective of the agreement.

3 We are entering into a contract with the
4 State Controller's Office, and the objective is to
5 conduct a financial audit of the job creation fund
6 and an audit of a selection of completed projects of
7 the job creation fund to evaluate their
8 effectiveness.

9 So in doing this there's really three tasks
10 for this scope of work.

11 The first task is really just the
12 management of the agreement, how we expect to work
13 with the controller's office to carry out this
14 contract.

15 And so you can see there's subtasks there,
16 Task 1.1. We will have a kickoff meeting after this
17 agreement is passed. It spells out basically that
18 there will be a date and time that we all come
19 together. Part of the CEC's contract office will be
20 there in those meetings with me, just to iron out
21 and see what the lines of communication will be and
22 the procedures will be to implement the agreement.

23 The budget office also comes down to just
24 make sure that they pay them on time, as it were.

25 We don't have any subcontractors, the

1 controller's office is doing this all on their own.

2 Another subtask is a progress report. It's
3 just to verify that progress is being made on the
4 audit, we're achieving the objectives of the audit.

5 There's quarterly progress reports, and
6 each progress report is due within 15 days after the
7 end of the quarter, and it's up to myself to provide
8 the format for those progress reports.

9 The agreement and final audit report, that
10 just spells out the final audit report describes the
11 conclusions, results, approach, purpose of the
12 agreement. Goes into language that is easily
13 understood by everybody, including myself, so that's
14 important.

15 As you can see, I'm working with a man over
16 there named Jim Spano, Financial and Mandates Bureau
17 Chief, Project Manager, just as information.

18 Going on to the technical tasks, this is
19 really the meat of the scope of work.

20 The first task is the Task Number 2, that's
21 the financial audit of the job creation fund, and
22 this is where the State Controller's Office does its
23 best work.

24 They basically will develop an audit plan
25 to accomplish the audit and include an estimate of

1 hours to complete the audit, and schedule of
2 completion.

3 This audit is basically looking at all the
4 paper trail of all the financials of each part of
5 the job creation fund, so this includes not only the
6 Energy Commission and the community college
7 programs, but also the other smaller programs that
8 pull funds out of the job creation fund. It's
9 basically just checking to make sure that the
10 standards are up to government auditing standards,
11 and so that's what they use.

12 The deliverables for that is they draft an
13 audit plan with estimated hours and schedules to
14 complete the audit. They provide the COB chair with
15 a bound original final audit report, and the CCM,
16 which is basically myself as the contract manager,
17 myself, with a bound copy of the final audit report.
18 So as soon as we have that, obviously we'll put it
19 on our website, it'll be the final audit report that
20 they give us.

21 Task Number 3, this is a slightly different
22 approach on the audit. This is more of a program
23 audit of the job creation fund. So what this is
24 really designed to do is not look and see if each
25 entity is meeting energy, sort of an energy level,

1 or doing anything within their program. What this is
2 looking is making sure they are following their own
3 program guidelines that they've laid out.

4 So the way we looked at this is that we
5 want to make sure that the LEA (inaudible)
6 Proposition 39 work program, that they are
7 determining each selected completed projects adhere
8 to the applicable version of the CEC's 2015 program
9 implementation guidelines and energy expenditure
10 plan handbook.

11 And that two, the LEA energy expenditure
12 plan selected on that project was approved in
13 accordance with the applicable version of CEC's
14 energy expenditure plan handbook. Meaning that
15 they'll be using the same year, obviously, that
16 these LEAs used when they filled out their energy
17 expenditure plan.

18 Same thing for the community college
19 Proposition 39 energy program. They will be looking
20 at selected completed projects adhere to, in their
21 implementation guidelines they have their own
22 guidelines so they're slightly different, and that
23 they're making sure that those are in accordance
24 with that (inaudible).

25 So this is the tasks that the controller's

1 office will be looking at.

2 It was brought up that one thing we want to
3 put on the controller's office to make sure they do
4 is to make sure the sample projects are consistent
5 with the level that funds are being distributed on.
6 So one thing we put on there is that 80 percent of
7 the projects that the controller's office will look
8 on will be based on the LEA program, the California
9 Energy Commission's program, and that 20 percent of
10 the projects audited will be community college
11 district program. This is in line with how much
12 funds each program is getting, so that's the
13 determination around that.

14 One other thing that I put in that was
15 brought to the attention just a couple days ago was
16 to make sure that we put in a list of planned
17 projects. When they design the list of planned
18 projects, take into the category of each project in
19 order to bring about a comparative sample of the
20 total percentage of categories.

21 What this means, basically, is that if
22 we're looking at Energy Commission's breakdown of
23 the type of projects they do and a large percentage
24 of it is lighting, we want to make sure that the
25 audit is comparatively looking at a large percentage

1 of lighting, pretty much the same percent, just so
2 we don't get any skewed results on the audit, so
3 that was put in there.

4 Another thing to make sure of is when the
5 controller's office indicates its sample of the
6 schools that will be audited, it has to go to my
7 approval before the audit is put into effect. And
8 when I say my, I mean the chair's, so I will be
9 checking with the chair to make sure that looks
10 good. And I'm sure it can be up to the chair whether
11 she wants to ask everyone through bcc or email if
12 that looks like a good bit of sample projects.

13 Okay. So here's really what the
14 controller's office will be looking at. From the
15 selected completed projects, determine whether,
16 number one, the LEA submitted an expenditure plan to
17 the Energy Commission consistent with the priority
18 of eligible projects within its jurisdiction that
19 outlines the outlines the energy projects to be
20 funded; and that, number two, the Energy Commission
21 approved the expenditure plan.

22 So for all these except for a few, the
23 controller's office will be calling and getting
24 documentation from Energy Commission and from
25 community college chancellor's office directly, so

1 they will be directly auditing them on that.

2 With the approved expenditure plan there's
3 a few things that we want to make sure was done
4 correctly. We want to make sure that a signed
5 utility data release form from the LEA allow the
6 Energy Commission to access both historical and
7 future utility billing data through 2023.

8 We want to make sure that the benchmarking
9 process established by the Energy Commission and
10 Energy Commission guidelines allow a method to
11 determine the prioritized plan for the LEA
12 implementing eligible energy projects.

13 We want to make sure that one of the three
14 methods available to LEAs to identify eligible
15 energy projects were included, which include either
16 an energy survey, they had to get either that or an
17 American Society of Heating, Refrigerating, and Air
18 Conditioning Engineering, which is referred to as
19 ASHRA level to energy audit. Or number three, they
20 can also use data analytics according to the
21 guidelines. So we want to make sure that those
22 methods were followed through.

23 We also want to make sure that the savings
24 to investment ratio was adhered to, cost
25 effectiveness determination set forth by the Energy

1 Commission, so that they met that investment ratio.

2 We want to determine whether the final
3 report that we received, actually that the Energy
4 Commission received from the LEAs contain the
5 following information.

6 We want to make sure that they put in there
7 the total final gross project cost before deducting
8 any incentives or other grants.

9 We want to make sure the percentage of
10 total project costs derived from the job creation
11 fund is part of that.

12 We want to make sure the estimated amount
13 of energy saved accompanied by specific energy
14 consumption in utility bill cost data for the school
15 site where projects are located is included.

16 We also want to make sure the nameplate
17 rating of any new clean energy generation is
18 installed.

19 We want to make sure that they included the
20 number of trainees, the number of direct full-time
21 equivalent employees.

22 The amount of time between awarding of
23 financial assistance, that is receiving approved
24 energy expenditure plan and/or deposit and the
25 completion of the project or training activities is

1 included.

2 And lastly, we want to make sure that the
3 facility's energy intensity before and after the
4 project completion as determined from an energy
5 rating or benchmark system is included.

6 Some of the things that the controller's
7 office will need to contract the LEA directly is, so
8 they'll be calling the school districts directly, is
9 to determine that they used a competitive bidding
10 process. This is part of the Public Resource Code
11 that they should have adhered to if they received
12 the funds.

13 They also want to make sure that they
14 determined whether the LEA signed a contract that
15 identified project specification costs and projected
16 energy savings.

17 They want to determine whether the LEA
18 supported project costs, and they would use
19 different determinations for that.

20 And they want to determine whether the LEA
21 limited project overhead to four percent of the
22 total funding, which is part of the Public Resource
23 Code.

24 Lastly, they want to determine whether the
25 LEA paid back funds not to be used in accordance

1 with state statute or regulations.

2 If a project is torn down or remodeled or
3 if the property is deemed to be surplus and sold
4 prior to the payback of the project. What this means
5 is that if they received money for this and then
6 they sold the building, that they paid back the
7 funds for that.

8 I'd like to stop here before going on to
9 community college part if anyone has any questions
10 before, or I can continue, whatever is easier.

11 CHAIR GORDON: Just a quick question, and
12 maybe this is a Heather question as much as
13 anything.

14 Essentially I think what we're seeing,
15 right, is the goal of the audit it make sure that
16 these agencies are complying with their requirements
17 under statute, right; was that your thinking and
18 advising on this?

19 MS. BAUGH: Yeah. So there are several ways
20 this particular audit could have been conducted, but
21 I think the way that Jack is recommending to you
22 makes sense, and what he is suggesting is that the
23 auditors look at the guidelines each entity has
24 developed, and then how they've done those projects
25 consistent with those guidelines.

1 And the presumption there is that their
2 guidelines meet the intent and purpose of the
3 statute, right. You're going to get your energy
4 savings and your job creation because the guidelines
5 that have been created to implement these programs
6 are intended to do that, and so if they're acting
7 consistently with those guidelines and following
8 those guidelines, you should then see that result.

9 So what auditors typically do at this state
10 when we get this mandate is they look to make sure
11 the programs are doing those things. So if they've
12 gone off on a tangent and decided not to follow
13 their guidelines, then you might not be seeing the
14 results that you're anticipating, so this kind of
15 gets at that.

16 CHAIR GORDON: Member Dias.

17 BOARD MEMBER DIAS: I just have a question
18 on the 80/20. Is that 80 percent of the funds or 80
19 percent of the project? Because I mean, you can have
20 \$20 million projects and 80 \$10,000 projects and
21 it's not equal.

22 MR. BASTIDA: Yeah. Board Member Walkie
23 asked that same question actually just the other
24 day.

25 It's the number of projects. It would be

1 the -- so the State Controller's Office will pick
2 these different schools and projects, and then out
3 of what they pick 80 percent will be LEAs, 20
4 percent will be community college.

5 MS. BAUGH: It's the number of projects is
6 the answer to the question.

7 VICE CHAIR RAY: Yeah, Jack and I chatted
8 about this.

9 By the way, Jack, great report. Properly
10 begun, half done, it really applies here.

11 We're doing two things. One is a
12 straightforward financial audit, which probably is
13 no trouble. And the second is an audit, which is a
14 curious term, for the programming.

15 Is there any history of auditing programs?
16 Tell me this isn't the first time.

17 MS. BAUGH: Oh, no, no. So actually this is
18 a really appropriate way for us to do this because I
19 think they have capacity to do this. Finance or SCO
20 audits all of the statewide grant programs, so
21 Prop 1, Prop 84, Prop 40, you know, the voters will
22 pass bonds, right, that the state is supposed to use
23 a certain way and those will be distributed among
24 state agencies and varying departments and programs.
25 And then the question becomes was that bond money

1 used appropriately and did it meet the voters'
2 goals, right, did it do the thing we said it would
3 do?

4 So periodically one of these two
5 departments, Finance typically are the auditors but
6 SCO sometimes as well will come in and just check
7 your guidelines. Your guidelines say you're going to
8 do these ten things to ensure the goals of the
9 program are met. Did you do those ten things?

10 So we have projects fail, right? We're
11 going to put a trail in, we're going to put a pier
12 in, and then that trail doesn't get built, that pier
13 doesn't go in, neighbors didn't like it, world came
14 to an end.

15 They're not looking to say project didn't
16 get built. What they're looking to say is when you
17 applied and were funded to do that project, was that
18 a legitimate process? Did you legitimately apply?
19 Were all the things you needed to show met so that
20 it was reasonable for the state to think they would
21 get a trail with this funding, they weren't just
22 passing the money along to special friends.

23 VICE CHAIR RAY: I share the concern just
24 expressed that by dividing the work 80/20 based on
25 projects, I'm not sure that's a proper approach.

1 There are three issues. One is the number
2 of projects --

3 MS. BAUGH: Um-hmm.

4 VICE CHAIR RAY: -- the dollar value of the
5 projects --

6 MS. BAUGH: Right.

7 VICE CHAIR RAY: -- and then kind of
8 generically speaking where the monies were applied.
9 Was it for photovoltaics or was it new light bulbs,
10 was it HVAC?

11 MS. BAUGH: Um-hmm.

12 VICE CHAIR RAY: And we surely don't want
13 to end up with 80 percent HVAC and --

14 MS. BAUGH: Right. And we've addressed that
15 in here.

16 VICE CHAIR RAY: You think so?

17 MS. BAUGH: Well, the next line down, the
18 SCO will take into account the category of each
19 project, that was in direct response to your concern
20 on that part.

21 VICE CHAIR RAY: All right.

22 MS. BAUGH: It doesn't get to the point
23 just made about the size of the project, though.

24 So Jack, have you considered that or
25 discussed it with --

1 MR. BASTIDA: Yeah. One of the things that
2 we should look at is that when the controller's
3 office looks at these projects, they might go to a
4 school district that has five projects, and while
5 they're there they might as well check on all those
6 projects.

7 Like the school district might have
8 installed some lighting. They might have installed
9 an HVAC system. But while they're there they might
10 as well -- it's cost effective to look at all those
11 projects and audit all of those projects.

12 So what we have is what they're going to be
13 doing is looking at a sample of all the LEAs and
14 working off that list, not a project list.

15 CHAIR GORDON: Member Harris, question.

16 BOARD MEMBER HARRIS: I guess the question
17 I have, then, is if the audit uncovers something
18 that did not meet the requirements, is the entity
19 that's being audited, the CEC is the administrator
20 of the program and is that an issue for the CEC to
21 resolve, or did it end up putting the school in a
22 position where they are primarily responsible to
23 cure it?

24 MS. BAUGH: It's going to depend on what
25 the audit finds, but typically what will happen is

1 they'll say we're finding you didn't fill out this
2 form, or we're finding that nobody did any -- you
3 advance paid everything and you should have done it
4 retroactively, or whatever they find, right, and
5 they'll ask that audited entity to respond.

6 So nine times out of ten the entity will
7 say, oh, we have a perfectly reasonable explanation
8 for this. It was allowed, CEC said that was fine.
9 Here's our memorandum of discussion on that, or
10 whatever, so it's very rare.

11 But yeah, if they find something it would
12 really depend on what they find. If it's I tore down
13 the building and didn't pay you back, presumably
14 you've got a school problem, right. But if it's the
15 guidelines didn't make sense and I didn't know how
16 to comply with that, then you might want to as a
17 Board think about how you talk to CEC about updating
18 their (inaudible). So I think it'll depend on what
19 they uncover.

20 Usually these are more technical things
21 that they're finding, they're not -- I would be
22 surprised if you go down to L.A. Unified and don't
23 find any HVACs or light bulbs.

24 BOARD MEMBER ODBERT: Just a clarification
25 on that point. Does the program audit include that

1 physical visual inspection of whatever?

2 MS. BAUGH: I certainly -- no, they're not
3 going to go down and see?

4 MR. BASTIDA: I think they're going to just
5 check the paper.

6 MS. BAUGH: Yeah, so I'm going to recommend
7 that they do go down.

8 MR. BASTIDA: They do go?

9 MS. BAUGH: Yeah. If we want to know if the
10 pier got in, the way to do it is to go to the pier.

11 BOARD MEMBER ODBERT: It doesn't call that
12 out explicitly.

13 MS. BAUGH: Yeah, so we can ask them to do
14 that. Yeah, the audit can incorporate costs for
15 that.

16 CHAIR GORDON: Two quick things.

17 So yes, I think that is a great point and I
18 think that's one point that we're --

19 The other is I don't think we finished on
20 the size issue. Jack, the explanation you gave makes
21 sense in terms of projects, but there's nothing in
22 here that would stop -- and I hadn't thought of
23 this, but there's nothing in here that would stop
24 the 80 percent of LEAs from all being school
25 districts that are in the smallest five percent of

1 the state, and that would not be representative, so
2 I think there is a question of whether we want to do
3 something that's a representative size.

4 MS. BAUGH: Can I just ask a question on
5 that?

6 MR. BASTIDA: Yeah.

7 MS. BAUGH: I understand you have very few
8 LEA projects; am I getting that backward?

9 MR. BASTIDA: Yes, it's only 17 completed
10 projects.

11 MS. BAUGH: So their sampling size is going
12 to be quite low.

13 MR. BASTIDA: For this year, yeah.

14 MS. BAUGH: I think maybe the way you might
15 want to approach it is ask them to provide you a
16 sample that's representative statistically of the
17 entities that would be participating, so that when
18 you have more to look at you don't end up with this
19 odd result, but right now I think you have so few
20 that 80 percent of them is (inaudible).

21 CHAIR GORDON: That may be the way to solve
22 that problem.

23 Member Dias.

24 BOARD MEMBER DIAS: If I'm not mistaken,
25 the last meeting we had we talked about a school

1 district in an outlying area and they didn't have
2 their heating functioning or whatever it was, and we
3 were going to be able to use these funds to fix it.
4 But then this thing says about the energy savings
5 where there's going to actually be more energy used,
6 but that's still okay, correct? You know what I'm
7 saying?

8 MR. BASTIDA: So I'm sorry.

9 BOARD MEMBER DIAS: If a school district
10 and the kids are having to wear coats all day long
11 in the school because their heating system is down,
12 I thought we were still going to be able to use
13 these funds to fix that. But when you go to the
14 audit it's actually going to use more energy because
15 when it's shut off you're using zero.

16 CHAIR GORDON: This is something that the
17 CEC deals with when the application first comes in,
18 and we heard from Twin Rivers, I think, months ago
19 about this exact situation, and they have been able
20 to work it through at the CEC level and get to a
21 place where they feel that their ratio is met, and
22 the audit would then look at that process and would
23 determine whether that process was valid under the
24 statute.

25 BOARD MEMBER DIAS: Okay. It would be

1 addressed.

2 CHAIR GORDON: Exactly.

3 BOARD MEMBER DIAS: Okay. I just wanted to
4 make sure.

5 MS. BAUGH: So if they got permission from
6 CEC and they did some calculus that still gets us to
7 energy efficiency and a net value, the auditor is
8 going to say, great, you have your paperwork in
9 order to show that, right.

10 BOARD MEMBER DIAS: Okay.

11 CHAIR GORDON: And this is something, as
12 you remember, that we raised in the report and I
13 think something we should think about from a
14 qualitative standpoint and continue to think about
15 as a recommendation or something to watch. But my
16 understanding of what Heather just said is that the
17 audit doesn't get to that; that's really a CEC LEA
18 kind of determination.

19 MS. BAUGH: So the audit gets to it
20 indirectly. CEC is an expert in energy savings;
21 we're going to let them develop the protocols to
22 figure out how to do that, and then we're going to
23 make sure people are doing that.

24 BOARD MEMBER DIAS: Okay.

25 MS. BAUGH: Does that answer?

1 BOARD MEMBER DIAS: Yeah, thank you.

2 CHAIR GORDON: I want to give Gary a chance
3 to ask a question.

4 BOARD MEMBER KREMEN: Oh, hi, it's Gary
5 Kremen. I was wondering if there was any way we can
6 ask, even if (inaudible) project that you audited,
7 maybe look at ones that may be in districts that had
8 challenges administrating projects in the past
9 and/or projects that might have more risk associated
10 with them, because that's probably a place we need
11 an audit.

12 CHAIR GORDON: Heather, how would we get at
13 that question?

14 MS. BAUGH: Well, I would just caveat by
15 saying I don't know that's the place where you need
16 the audit, that hasn't been my experience.

17 But yeah, the problem is that we need to
18 let SCO give us a sampling, right, so that it's
19 random and it's objective. Otherwise, we're going to
20 cherry pick the places we'd like to know about and
21 tell them in advance and their paperwork is going to
22 be perfect, right, because we've told them we would
23 like to audit you.

24 So I think what SCO will recommend and I
25 think I would also recommend is that you allow them

1 to come up with a sampling, but we can certainly,
2 because Jack does have that approval through the
3 chair, take a look at that list and if it looks like
4 these are relatively -- I don't know what low risk
5 criteria you're using, but perhaps you've got
6 concerns that some are on that, we can ask SCO to
7 resample that list.

8 CHAIR GORDON: I know I have asked this
9 many times, but we do we know how many projects they
10 will be able to look at? Last I think we talked
11 about it they wouldn't tell us until we signed a
12 contract.

13 MS. BAUGH: No. I mean, you have \$350,000
14 and you have to assume --

15 MR. BASTIDA: Three hundred.

16 MS. BAUGH: -- 300, and 10 percent of that
17 is going to go to their indirect, right. So I think
18 the first audit is relatively straightforward for
19 them, so maybe a third of that cost and then the
20 rest of it's going to go to the second part.

21 But I don't know, I think maybe 10, 15 is
22 my guess. I think it'll be more detailed but they'll
23 give you that plan later. And so the way to avoid
24 trying to make them tell us that when they're not
25 sure what you all were going to decide you needed

1 today was to say you tell us based on the criteria
2 that we give you how many you can do.

3 So what's going to happen is you're going
4 to tell them today these are the things we need to
5 see in the audit, and then they're going to say
6 based on that we can do eight, or we can do seven,
7 or we can do twenty. I don't know what they're going
8 to say.

9 MR. BASTIDA: They haven't given me any
10 real number for that.

11 CHAIR GORDON: Member Sakurai.

12 BOARD MEMBER SAKURAI: One of the thoughts
13 was take a look at the future pipeline and to
14 allocate funds associated with that pipeline
15 (inaudible). So if there's problems, hopefully this
16 audit will uncover them early so that the public
17 process can correct that sooner rather than later.

18 MS. BAUGH: That's right. I think the 80/20
19 was originally thought of for that purpose, so
20 hopefully you'll get good information and then
21 you'll also have a little bit more time. You need to
22 get these funds encumbered by June 30th. What that
23 means is if you don't use this money today, it's
24 going to go away and you won't have it every again.
25 So you'll have money for next year but this money

1 will be gone.

2 So I think the goal today is to have some
3 set of criteria you can allow Jack to go forward
4 with, and then give him the delegation to develop a
5 contract based on it.

6 CHAIR GORDON: Member Harris.

7 BOARD MEMBER HARRIS: Yeah, I have a
8 question on another topic. I don't know if we're
9 finished on the discussion of the 80/20 or...

10 CHAIR GORDON: Go ahead, we can always come
11 back to it.

12 BOARD MEMBER HARRIS: Yeah, my question was
13 just in relationship to the billing and the
14 relationship with the State Controller's Office.

15 So it says that they invoice for all
16 reimbursable expenses. Does that include then is
17 there a mechanism whereby they bill for the auditing
18 hours, whatever people on their -- okay.

19 MS. BAUGH: Yeah, they're going to
20 basically tell you the time cost for each employee
21 and then they're going to have indirect and they're
22 going to have travel and...

23 MR. BASTIDA: And that gets updated each
24 year as contracts (inaudible) are updated and things
25 like that.

1 BOARD MEMBER HARRIS: Got it. Okay, thank
2 you.

3 CHAIR GORDON: Questions from the Board.
4 Yes, Vice Chair Ray.

5 VICE CHAIR RAY: Yes, thank you. So we're
6 going to spend a lot of money with some smart people
7 analyzing a lot of data, and we're going to get an
8 audit and a bit of history.

9 But I'm greedy, and I'm wondering how we
10 can incorporate into the scope some duties which
11 will result in data that we can share with school
12 districts over time that will help them make better
13 choices as they move forward.

14 I don't know quite what this would be.
15 Maybe certain improvements are more effective than
16 others in terms of energy savings.

17 The schools were built 30, 40, 50 years
18 ago, more, and this program of upgrading them in
19 terms of energy efficiency is not going to go away
20 simply because we're gone in three years or
21 whatever.

22 MS. BAUGH: I hope not.

23 VICE CHAIR RAY: I don't know. I want to
24 see data which will help us going forward. How do we
25 extract that?

1 MS. BAUGH: So I think you're not talking
2 about this audit, I think you're talking about your
3 report to the Legislature. And I think that what
4 Jack and I starting to work on and hopefully will
5 bring to you much sooner in the process his year is
6 how do you get the entities responsible for
7 assessing that data to give you that information,
8 right.

9 I was only here for the last meeting so I
10 don't know, but it seemed quire abbreviated to me,
11 the process of you all understanding what was in
12 that report and getting that information and being
13 able to direct those entities to tell you just that,
14 right. How are you doing this assessment; are we
15 giving them the tools they need to make it properly,
16 etcetera?

17 So my sense is you need your expert CEC and
18 the chancellor's office and those with the expertise
19 on energy efficiency to tell you how is this
20 working, you know, is this working, and that's part
21 of their job and their report.

22 VICE CHAIR RAY: So I can't ask you.

23 MS. BAUGH: So you can ask me. I won't know
24 the answer. I will tell you I don't think SCO could
25 do that audit and provide you that data because it's

1 not their bailiwick.

2 COMMISSIONER SCOTT: I think that's right,
3 and I definitely understand what you're saying,
4 Walkie. Ideally, we would have had this as a
5 reversed process and we would have had an audit that
6 we could have then included our conclusions from in
7 the report to the Legislature, but because of
8 deadlines it was the opposite of that.

9 So we should be thinking of how the audit
10 will contribute to the next report and what we'll
11 learn from it for the next report. And it sounds to
12 me like your question is, is there any way to shape
13 the audit so we learn more for the next report.

14 VICE CHAIR RAY: Yes.

15 CHAIR GORDON: I don't know how to answer
16 that question either, but I think that's the
17 question.

18 VICE CHAIR RAY: That is.

19 MS. BAUGH: You might find that there's a
20 consistent problem with a particular application
21 requirement. They can't get through this because
22 they've got a teacher and a nurse and a principal
23 and they're already doing 50 other things and you're
24 asking them to write this extensive grant, and they
25 don't know what you're talking about, right. So you

1 might find that there is a consistent problem that
2 you're seeing show up, right.

3 And that can form your question to the CEC
4 or the chancellor's office, why are you asking this
5 and can you give them some technical help when they
6 do this process so that they know they really should
7 be asking for lighting and not HVAC, because they're
8 asking you for whatever they think they can get and
9 they're really busy and they don't have this
10 expertise. I think that that would be the way to use
11 it if you see that pattern happening, right. If we
12 see that no one can get through this requirement or
13 they take it down after three years. Turns out
14 nobody left these things in, they put in something
15 else.

16 VICE CHAIR RAY: But who can we go to to
17 design a protocol whereby we get data that is useful
18 in the future, who do we hire?

19 MS. BAUGH: Well, I think you'll have the
20 data for that piece that I just recommended. And I
21 think what you want then is to be able to pose the
22 question to the entities running these programs. So
23 that's what you need to be doing when you prepare
24 your template for the other part of your mandate,
25 which is your report to the Legislature. What you

1 ask them to share with you needs to include that
2 information.

3 What I heard them say is we don't know the
4 answer because we hadn't been asked that so we
5 haven't had time to gather that for you. So you need
6 to be taking the information in the audit and as the
7 Board say to them, here's the questions we have for
8 the report to the Legislature.

9 CHAIR GORDON: Maybe to rephrase that, or
10 my sense is that the audit's purpose is really
11 fairly simple and it's just to say are these
12 entities essentially doing what they're supposed to
13 do under statute. So they have a relationship with
14 the LEAs or with the community college schools.
15 They're having that negotiation. They're figuring
16 out whether their standards are met, and then the
17 next level up is this audit of basically were they
18 operating under statute while doing that.

19 My feeling is that we take this -- and in
20 some ways maybe the timing is good -- we take the
21 results from the audit and we then compile, we
22 basically look for red flags, right, and we say this
23 looks like this requirement isn't working, or it
24 looks like lighting might not be the best use of
25 these funds, or whatever it is we see, and then we

1 go back to the CEC and the community colleges and we
2 say we want to understand more. We want your answer
3 on all the schools in this category that we're
4 identified.

5 So this is the piece that allows us to ask
6 the right questions. I'm not sure that we can get
7 much more just from discussions with Heather, and I
8 know you've had a lot too, from the audit than what
9 we're talking about today.

10 Although I have one question on that. Jack,
11 maybe you know this.

12 At the time of our last meeting we only had
13 17 completed projects, but that's a rolling number.
14 So do we have more today, and how many do we expect
15 to have when the audit actually starts?

16 MR. BASTIDA: I asked CEC this just a
17 couple days ago and they've only got four more in,
18 so there's 21 completed projects.

19 COMMISSIONER SCOTT: But what's their
20 expectation for, for instance, mid summer?

21 MR. BASTIDA: Well, so they think that
22 they'll continue to kind of trickle in, but they
23 don't expect a huge amount more until late next
24 year.

25 COMMISSIONER SCOTT: Because my bigger

1 concern actually is that we won't learn all that
2 much because we have such a small sample size.

3 MS. BAUGH: But that might actually be what
4 you're learning, right, is that you have this giant
5 chunk of money and a lack of capacity for people to
6 be able to take it and absorb and use it in a way
7 that we thought.

8 So my office, my client is oversight for
9 all the bonds in the state, and then I actually plan
10 for the granting to these groups of those bonds. So
11 you're hear one side, yes, we're going to do all
12 these amazing projects, it's so exciting, and
13 they've got all their staff working on that.

14 But then if you look at it at this
15 programmatic skill you think why does only one-
16 fourth of the state have trails, or why can't we get
17 this group of the state to do this thing that we
18 thought was really cool, and so you can see those
19 patterns and trends emerging at this higher scale.

20 And it's because of a lack of capacity.
21 We've either bonked how we set up the criteria for
22 them to be able to take the funding; it's too
23 complicated, it's too burdensome, they don't have
24 the expertise.

25 Or they're saying, well, we have six grants

1 we've already accepted. We've put all of our
2 nonprofit partners on them. We're doing cool stuff.
3 We can't take anymore from you.

4 MR. BASTIDA: One thing to add, too, is
5 that this fund allows you to roll over your funds
6 until you do your completion report, so they can be
7 done with some projects but not be done with others
8 and are waiting for more funding each year, and so
9 they're not ready to do their completion report.

10 CHAIR GORDON: Member Odbert.

11 BOARD MEMBER ODBERT: So if the audit is
12 only looking at the completed projects which we say
13 is a small sample size of 25, is it actually
14 possible for us to make any evidence based
15 conclusions about these things that you mentioned
16 about not having access or not being able to get
17 through the burdensome process?

18 Because it seems to me to get that
19 information you would have to be auditing those
20 groups that haven't completed a project. Those would
21 be the people to tell you the process is too
22 burdensome. We don't have the capacity. Presumably
23 the 25 that we're auditing did make it through that.

24 MS. BAUGH: Yeah, I think the hard part
25 about that for you all would be that your statute

1 says completed projects. So it would be great to be
2 able to go ask them, but that doesn't preclude you
3 from asking your program entities, go talk to these
4 folks and figure out. Tell us why we aren't getting
5 these completed reports.

6 A good example of this was when we first
7 started doing solar it was on the ground, you had to
8 take up a lot of space for it and people would do
9 these leases for it and then use up all of their
10 space, right. And suddenly we don't have a soccer
11 field anymore because we put all our solar panels on
12 it. So we don't want solar because we need a soccer
13 field, right. And so we couldn't figure out why
14 aren't they taking the money for the solar.

15 And as solar started to be raised and we
16 put it on car covers in Sacramento are great because
17 it's 108 here in the summer. Now everybody wants
18 their solar.

19 But that wouldn't have been something we
20 intuitively figured out, right. We would have just
21 said we have a pot of money that's not being used.

22 So you can certainly have your grant
23 administrators and your program guys, Jack, go and
24 ask those questions.

25 And that template that he's creating for

1 you, which I would suggest you maybe want to be
2 particularly engaged in, Board Member Ray, is what
3 are the questions that you ask these folks, right.

4 VICE CHAIR RAY: Thank you.

5 CHAIR GORDON: Member Sakurai?

6 BOARD MEMBER SAKURAI: Yes, just so we were
7 convened late. So there was a public process that
8 created this program and regulations, and then at
9 some point this Board was created after all that was
10 done.

11 MS. BAUGH: Um-hmm.

12 BOARD MEMBER SAKURAI: And then at the end
13 of the day there's a need out there and there are
14 kids in not great conditions, and that's what I
15 think we're getting into trying to figure out.

16 So our mandate is very refined,
17 restrictive, which is fine, but how do we get ahead
18 or how do we make a recommendation based on the work
19 that's being done and then constructively go to the
20 Legislature with some recommendations. That is the
21 big unknown, so it's a great discussion.

22 CHAIR GORDON: It's a good discussion and I
23 guess a follow-up suggestion to that may be not
24 something we can do but I'll just say it, is to what
25 extent we can do what we did in one prior meeting

1 but we haven't done since, which is to actually
2 actively ask people to come in and present.

3 So we had some of the LEAs, we had the
4 Coalition for Adequate School Housing present, you
5 might remember, and some of the contractors who do a
6 lot of work in these schools. That was a very
7 informative meeting and I think a lot of our
8 recommendations in our report actually were spurred
9 on by that conversation.

10 So one thing that has struck me in this
11 process is there are a lot of agencies involved in
12 this program. This is the one place where there's a
13 public process that we can talk about all of those
14 different agencies and all the different work and
15 how it's all coming together, so it may be that we
16 want to be more proactive in having presentations
17 and asking questions directly while we're meeting.
18 So that's one idea.

19 BOARD MEMBER SAKURAI: And a lot of it may
20 actually be the people who haven't applied. So these
21 funds are available. It sounds like the preliminary
22 information we're getting coming late to the table
23 is that (inaudible). And so I think, Chair, that's a
24 great point is how do we get ahead. We're starting
25 late.

1 CHAIR GORDON: I want to actually contest
2 that conclusion because actually looking at the
3 reports from the LEAs and the timelines, we're not
4 seeing that it's not being used or applied for. What
5 we're actually seeing is that because the process
6 says that schools can't be completed until they have
7 12 to 15 months of utility data post project, that
8 it's a very long process.

9 So I think we're seeing a lot of
10 applications, a lot of initial projects, and very
11 few that are done, and it's a really long process
12 and we may want to say something about that, but
13 that is something we see.

14 As well as the point that Jack made
15 earlier. I think that we know from applications
16 which is that some of the larger districts are
17 banking their funds. L.A. Unified just applied, for
18 instance. It's the largest district.

19 BOARD MEMBER SAKURAI: Just?

20 CHAIR GORDON: Because they bank their
21 (inaudible) funds. They want to do big projects,
22 which for those of us that do efficiency, we
23 probably like that fact. Larger projects are often
24 more comprehensive.

25 So I think one of the frustrations about

1 this project is that the number of completed
2 projects, it's hard to know how representative that
3 is, actually, which goes back to how do we have an
4 audit that's representative when that number is not
5 representative, but it is under statute that we
6 can't review the non-completed projects. So we're
7 kind of in a bind.

8 MS. BAUGH: Yeah. I would just also have
9 you consider the wording. We're calling this an
10 audit, and to me it looks like a financial and
11 program audit when I read the statute, and that's
12 not addressing this fundamental concern you have as
13 oversight.

14 So audit, we think great, that's going to
15 give us red flags and we're going to use that
16 information and go use it, and it will but not for
17 the type of issues you have.

18 So regulations can be amended, and that may
19 not make my friends at CEC thrilled because those
20 processes are hard and painful and I'm in four of
21 them so I can tell you I'd be like, we're not
22 amending it. But if you find that something is
23 really not working, that's your role.

24 VICE CHAIR RAY: For example, the 15
25 months.

1 MS. BAUGH: Because I think you did ask
2 that question, right? Yeah, in your report to the
3 Legislature, should we do this?

4 CHAIR GORDON: I think that the 12 to 15
5 months might be in the legislation actually,
6 unfortunately.

7 VICE CHAIR RAY: But could we ask for a
8 preliminary report at the end of construction?

9 MS. BAUGH: Yeah.

10 VICE CHAIR RAY: Because one month's worth
11 of electricity is actually quite telling.

12 MS. BAUGH: Dispositive, yeah. But you
13 certainly could. You could say your completed report
14 is a matter of protocol and form, but we'd like to
15 know two months in what your bills look like.

16 CHAIR GORDON: I think this is a good
17 point, and certainly though our mandate is limited,
18 we always have the ability to write a letter to the
19 CEC with recommendations; that's absolutely within
20 our right.

21 And I would love to see us being proactive
22 on getting people in who could answer some of these
23 questions.

24 The report gave kind of an introduction to
25 some of these big issues and maybe thinking through

1 what are the top two to three issues that we're
2 consistently seeing, and we want more information on
3 whether that school size, who's not applying, the
4 whole question about the charters and the
5 percentages there, the types of projects, whatever
6 those questions are. But it's a great opportunity to
7 think before the next meeting of who we would like
8 to have in the room to have some of those
9 discussions.

10 MS. BAUGH: And I think the CEC is on your
11 Board too, so you could meet with those board
12 members.

13 CHAIR GORDON: Gary, do you want to weigh
14 in on this? I want to make sure you have a chance to
15 talk.

16 BOARD MEMBER KREMEN: No, I think this has
17 been a really good discussion.

18 CHAIR GORDON: Great, and it gets to some
19 of the big issues that I know that Joanne brought up
20 during the report process as well, which is to the
21 extent we're seeing issues, how do we talk about
22 them, how do we raise them.

23 On the audit itself, I heard two
24 amendments, I think. I don't know if they're
25 amendments, maybe that's the wrong word. Heather, I

1 heard two suggestions of how to change the wording.
2 I do want to push for voting on this today because
3 of the timeline of getting to use this money.

4 And Jack, I'm assuming you have these, but
5 I think one is around getting a physical visit.

6 MR. BASTIDA: Yes.

7 CHAIR GORDON: Wanted to make that clearer.
8 And the other was -- and maybe this is just a change
9 to the second bullet point on Page 5, which is when
10 looking at designing its list of planned projects
11 for the audit plan, that bullet point, changing that
12 to something that says that the SCO will ensure that
13 these are statistically representative, which I
14 think gets to both the type of project and the size.

15 MR. BASTIDA: Okay.

16 CHAIR GORDON: If that is...

17 MS. BAUGH: Feasible, yeah.

18 CHAIR GORDON: We can do a motion on this.
19 Do we need to go through any more pages of it first,
20 Jack, before --

21 MR. BASTIDA: I didn't go through the
22 actual tasks of the community college.

23 CHAIR GORDON: Which are identical, aren't
24 they?

25 MR. BASTIDA: They are pretty much

1 identical. They use a different implementation
2 guideline so that has to be accounted for. There are
3 a few different Public Resource Code sections that
4 deal with the community college energy program
5 directly, but in all practical sense it's about the
6 same.

7 MS. BAUGH: I'm going to recommend just
8 quickly on the statistical representation that they
9 work with you and Jack to come up with appropriate
10 language on that. Because they're going to go what
11 does that mean and how many LEAs and you're going to
12 end up with 19 projects and none of them in a
13 statistical. So we'll work with you to do that.

14 CHAIR GORDON: Sure.

15 MS. BAUGH: So you're basically delegating
16 to Jack to put together a contract that reflects
17 these terms.

18 BOARD MEMBER ODBERT: Just a small
19 clarification on that. I think you said when we were
20 discussing that point earlier that once that
21 statistical representation is preliminarily set,
22 Jack and Kate will have a chance to review it before
23 those become the actual points audited; is that
24 right?

25 MS. BAUGH: Yeah, I think you have that

1 built in.

2 CHAIR GORDON: That's in here. It's the
3 third bullet point, actually, under this one that we
4 have to approve the audit plan, which I think my
5 goal will be to have everybody be able to see those.
6 I think that's something we should all at least be
7 able to look at but it's delegated to me.

8 Maybe before we have a motion, Jack, can
9 you just talk through just the deliverable section
10 since you didn't get to that?

11 MR. BASTIDA: Sure. Deliverables, okay. So
12 this is what we get out of it really.

13 The controller's office will draft an
14 annual audit plan to include a list of planned
15 projects. They'll estimate staff hours per project.
16 They'll estimate the timeframe to complete each
17 project.

18 They'll also issue an annual program final
19 audit report. The reports will include observations
20 related to the program guidelines set forth by
21 Energy Commission and the community college
22 chancellor's office on the completed energy project
23 sample with related recommendations.

24 It will provide the chair with a bound
25 original final audit report, and the contract

1 manager with an audited entity with bound copy of
2 the final audit report.

3 CHAIR GORDON: I love that it has to be
4 bound.

5 MR. BASTIDA: Yeah.

6 MS. BAUGH: Actually, Jack, can I ask you
7 about this. They're not going to give you an
8 electronic copy?

9 MR. BASTIDA: I believe they'll also give
10 us an electronic copy, but I can put it in there.

11 CHAIR GORDON: Do we want bound hard
12 copies?

13 MR. BASTIDA: I will change that, then.

14 CHAIR GORDON: It's a lot of paper.

15 MS. BAUGH: They might just send you the
16 binding.

17 MR. BASTIDA: That's true.

18 VICE CHAIR RAY: May I ask how long this
19 will take?

20 MR. BASTIDA: That will be given to us an
21 estimated timeframe is one of their deliverables, so
22 we should know as soon as we enter into the
23 contract.

24 VICE CHAIR RAY: What is it, is it six
25 months more or less?

1 MR. BASTIDA: The financial audit is really
2 fast, they say. They quoted me saying two to three
3 weeks for them to check all the financials.

4 The program part of it, they weren't really
5 sure, they'd need to do some more research on that.

6 MS. BAUGH: Well, they have built-in
7 progress reports for you and that you should be
8 getting, I would hope, quarterly at the latest.

9 MR. BASTIDA: Quarterly, yeah.

10 MS. BAUGH: But you can ask for earlier,
11 because it's going to take them six to eight months.

12 MR. BASTIDA: We have progress reports
13 quarterly.

14 MS. BAUGH: I mean, that's my guess, is
15 what I would guess if you ask me.

16 VICE CHAIR RAY: When it said quarterly I
17 kind of sense it wasn't going to be next month.

18 MS. BAUGH: Because they're going to
19 basically send two people or three people out that
20 they might articulate for you to go look at these
21 schools, see if they followed the rules.

22 MR. BASTIDA: So they do have some due
23 dates for some things. They need to have their draft
24 audit plan to me within 45 days after the execution
25 of the agreement.

1 They need to draft their final audit report
2 within 90 days from the conference date.

3 And then the final report, they say a ten
4 day response period, so they're a little bit less
5 datewise on that one.

6 BOARD MEMBER ODBERT: Is this 2019 a real
7 date, agreement final audit report June 30th, 2019?

8 MR. BASTIDA: Yes. So this is a contract
9 for three years.

10 BOARD MEMBER ODBERT: Oh, I see.

11 MR. BASTIDA: \$300,000.

12 CHAIR GORDON: And three annual reports.

13 VICE CHAIR RAY: So it's 100,000 a year?

14 CHAIR GORDON: 300 a year. But if we don't
15 vote on this contract and execute it, then we will
16 lose our first 300, so just as a reminder.

17 MS. BAUGH: It's contingent on your
18 preparation.

19 BOARD MEMBER SAKURAI: And there's a
20 provision here we can cancel?

21 MS. BAUGH: Yeah, we're going to have a
22 termination --

23 BOARD MEMBER SAKURAI: So if we're not
24 satisfied with the first year we could...

25 CHAIR GORDON: Absolutely.

1 MS. BAUGH: Termination clause in there for
2 you, yes.

3 CHAIR GORDON: Yeah, I was wondering if
4 that was a clue to the actual end of this entire
5 program, which we still don't know what it is. So
6 maybe it's 2019, maybe that's a clue to it.

7 MR. BASTIDA: We can always re-up our
8 contract.

9 CHAIR GORDON: It's a five-year program
10 that no one can tell when it started.

11 All right, unless there are other
12 questions, other discussion, I think we can -- Gary,
13 anything else from you?

14 BOARD MEMBER KREMEN: No. I would make the
15 motion we go ahead.

16 CHAIR GORDON: Great. I am trying to figure
17 out exactly how to articulate that motion, I will
18 ask Heather for her help on that.

19 MS. BAUGH: So I think you're making a
20 motion with the modifications that were just
21 discussed, to select the appropriate sample from the
22 types of communities, and -- I'm sorry, I forget the
23 second.

24 MR. BASTIDA: Physical visits.

25 MS. BAUGH: Physical visits, thank you. So

1 with those recommendations then what you're asking
2 the Board to approve is a delegation to Jack with
3 your help to finalize a contract that will encumber
4 this money.

5 CHAIR GORDON: Gary, is that the motion
6 you're making?

7 BOARD MEMBER KREMEN: Yes.

8 CHAIR GORDON: Great. Do we have a second?

9 VICE CHAIR RAY: I'll second.

10 CHAIR GORDON: Can we do a roll call on
11 this one?

12 MR. BASTIDA: Sure. Board Member Gordon?

13 CHAIR GORDON: Aye.

14 MR. BASTIDA: Board Member Ray?

15 VICE CHAIR RAY: Aye.

16 MR. BASTIDA: Board Member Dias?

17 BOARD MEMBER DIAS: Aye.

18 MR. BASTIDA: Board Member Harris?

19 BOARD MEMBER HARRIS: Aye.

20 MR. BASTIDA: Board Member Sakurai?

21 BOARD MEMBER SAKURAI: Aye.

22 MR. BASTIDA: Board Member Kremen?

23 BOARD MEMBER KREMEN: For.

24 MR. BASTIDA: Board Member Odbert?

25 BOARD MEMBER ODBERT: Aye.

1 MR. BASTIDA: It passes unanimously.

2 CHAIR GORDON: Great, thank you, great
3 discussion and I'm really happy this is moving
4 forward.

5 Our next and last item before public
6 comment is a discussion and possible vote on
7 dissolving the current committees. I would just love
8 Heather to give just a couple minute explanation. I
9 could explain the rationale but I would probably get
10 all tied up. But I would love the legal explanation
11 of why it's probably a good idea for us to dissolve
12 the committees.

13 MS. BAUGH: Yeah. So if you create by
14 formal action committees of two or more people under
15 the statute for open meeting laws in California,
16 you've effectively created a new body which is
17 subject to all of these protocols, like agendizing
18 things ten days in advance and meeting in public.
19 And I don't think that was your intent and I think a
20 few of you talking offline is not a quorum and is
21 otherwise okay. So unless you find that those
22 committees have a task that you really want them to
23 go do publicly, I would recommend not having them
24 and doing this in a different way.

25 CHAIR GORDON: Yeah, I think the dumb down

1 version of that is we have a committee of three and
2 if two of them are talking then it's a quorum and
3 has to be publicly noticed, which means only one
4 person can be talking to themselves, which is not
5 particularly...

6 The one thing I wanted to ask before we do
7 this is one of the reasons in creating these
8 committees was that from my perspective it's useful
9 to have other people on the Board be able to be lead
10 on certain issues. Is there a way to do that? Can we
11 just do that informally? What's your recommendation?

12 MS. BAUGH: No, you can do that informally
13 or you can ask somebody to be lead at a particular
14 meeting and have that agendized.

15 I think it gets confusing but Jack can
16 communicate with all of you, and he is going to do
17 that, and he is going to have one-way conversations,
18 and he's going to know what you all have said but
19 you're not going to know what you all have said
20 because that's the point, right.

21 And so he's going to do his best to get
22 everybody to a place where they can live with the
23 final result, and that may not always happen but
24 that's what he's working to do when he talks with
25 all of you.

1 So if you (inaudible) talk to Jack or your
2 chair. Your chair is a really good source for that,
3 and then she could say Board Member Ray wants to
4 make sure these small school districts keep the
5 lights on and can participate. I'm going to call him
6 and ask him to go work with Jack on that.

7 CHAIR GORDON: Got it.

8 BOARD MEMBER KREMEN: This is Gary. Why
9 don't we do ad hoc committees since these are just
10 issues for time serving, because then it wouldn't be
11 subject to Brown Act.

12 MS. BAUGH: Yeah, I think that's right,
13 you're just basically, as long as a quorum of you
14 don't meet but if three of you feel really compelled
15 by some issue, of course you should talk to each
16 other.

17 CHAIR GORDON: Okay.

18 MS. BAUGH: No serial communication because
19 that's not good.

20 CHAIR GORDON: Okay. Any questions on that?
21 Member Dias.

22 BOARD MEMBER DIAS: Yeah. I'm on the
23 Contractors State License Board and basically when
24 an email comes out we're not even allowed to reply
25 all anymore, so I just want to make sure.

1 MS. BAUGH: Yes, that is the same rule
2 here, although Jack is very smart in his bcc'ing
3 you, so if you did that you wouldn't be able to
4 talk, because that makes me nervous too, I don't
5 like when you all do that. And no one ever
6 remembers, everyone wants to reply all.

7 BOARD MEMBER DIAS: Right.

8 MS. BAUGH: You just hopefully won't have
9 the opportunity to reply all.

10 CHAIR GORDON: Jack and I both try to bcc,
11 so that's the way we handle that, but it's a really
12 good reminder. All these things have a lot of rules
13 attached to them.

14 Okay. So given that, do we have a motion --
15 do we have to move on this? Yes, we have to vote on
16 this.

17 MS. BAUGH: Oh, on the dissolution?

18 CHAIR GORDON: Yeah. Or can I just dissolve
19 it as chair?

20 MS. BAUGH: Did you guys vote to form them?

21 CHAIR GORDON: I think we did.

22 BOARD MEMBER DIAS: Yes.

23 MS. BAUGH: Okay, then you should formally
24 vote to dissolve them.

25 BOARD MEMBER SAKURAI: I'll move to

1 dissolve the current audit report committee.

2 BOARD MEMBER KREMEN: I'll second it.

3 CHAIR GORDON: Great. All in favor?

4 IN UNISON: Aye.

5 CHAIR GORDON: Anyone opposed? Any
6 abstentions? Great. And I will just say that I am
7 very gratified by the work through Jack and through
8 me that many of you did on both the report and the
9 audit, and even without committees we were able to
10 get a lot of input and really appreciate that and
11 hope that continues. Great.

12 All right, this has been a very efficient
13 meeting. This is the moment for public comment. Is
14 there anyone either on the phone or in the audience
15 who would like to comment?

16 BOARD MEMBER HARRIS: Chair, Member Sakurai
17 has something.

18 CHAIR GORDON: Member Sakurai.

19 BOARD MEMBER SAKURAI: Can I make a request
20 to staff. One of the things I think would help with
21 the transparency of our work would be staff reports,
22 so before we review we hear the reports we take them
23 in to know that staff has reviewed those and to say
24 somebody has reviewed them and is making a
25 recommendation to this Board to accept the various

1 reports. But also to add to the transparency of the
2 work we're doing and our thought process on this
3 audit and steps we've taken and why we're doing what
4 we're doing so that there's never any question about
5 the work of this Board.

6 CHAIR GORDON: Okay.

7 BOARD MEMBER SAKURAI: So that's actually a
8 request of staff, and thank you both. I think
9 Heather being on board is really helpful with that
10 as well.

11 CHAIR GORDON: I appreciate that.

12 So Jack, did that make sense to you?

13 MR. BASTIDA: Yeah, Heather's been really
14 helpful.

15 MS. BAUGH: I prefer staff reports too, so
16 it makes it easier for me to understand what you all
17 are doing, because if you ask me I have to think who
18 is the oversight board? But I can help you with
19 that.

20 CHAIR GORDON: Great suggestion.

21 Any public comment? Public, any comment?

22 No public comment, so just before we close
23 I wanted to just follow up on one thing before the
24 next meeting, which is to say hearing from everybody
25 that there's an interest in having people come to

1 the meetings with whom we can really have a
2 discussion about how this stuff is actually working,
3 if you could give ideas to me or Jack about who
4 you'd like to hear from and what kinds of people
5 you'd like, because Jack and I construct these
6 agendas we would love input on the next agenda.

7 BOARD MEMBER SAKURAI: I don't think we
8 need discussion on that, just to think out loud. The
9 people we're looking for aren't here. People who use
10 the facilities are having trouble, is my guess,
11 getting the technical assistance to do submissions.
12 It's more of a question than a statement.

13 CHAIR GORDON: I think that's probably
14 right, but it's hard to know who all those people
15 are but there are organizations like -- I'm throwing
16 this out -- the UC Berkeley Center for Cities and
17 Schools which does a lot of work across the state in
18 many school districts, not necessarily related to
19 this program, but they will have touched a lot of
20 the districts that are out there and they do big
21 overarching reports on efficiency, so we may want to
22 think about people like that who have seen and gone
23 to a lot of these schools.

24 Or the people who do the green ribbon work
25 for the buildings, Green Buildings Commission.

1 There's a number of different organizations in the
2 state that look at the schools and have a sense of
3 what's going on in the schools, so it's just
4 something to think about.

5 BOARD MEMBER ODBERT: Or might there be
6 ways to mine the existing application process for
7 groups or LEAs, people that have applied but never
8 made it all the way through the process, or applied
9 and didn't successfully receive funding?

10 CHAIR GORDON: That's a good question for
11 CEC of what they can tell us.

12 MR. BASTIDA: We can ask CEC that, is there
13 any schools that are having those kind of
14 difficulties that we can maybe talk to.

15 BOARD MEMBER HARRIS: Yeah, I think that's
16 a great idea. I think we don't even necessarily have
17 to go that deeply into it to find the ones that
18 didn't work out. I think even among the schools that
19 were successful doing it, they'll have a lot of
20 input, either them or their consultants or their
21 contractors, around what worked and what didn't,
22 what made it hard. It would be really interesting to
23 hear how it compares to other state energy programs
24 that they participate in and whether it's harder or
25 easier or how useful in the end they found it.

1 I wonder, the other thing that would be
2 interesting would be, if it's possible, and I don't
3 know if the CEC has the infrastructure to do this,
4 but can we use -- I forget the name of it but
5 there's a concept in customer satisfaction surveys
6 called net recommenders or -- it's skipping my mind.
7 Anyway, it's a way of surveying people --

8 BOARD MEMBER KREMEN: (Inaudible.)

9 BOARD MEMBER HARRIS: -- Yeah, surveying
10 people who have used a program and then asking them
11 if they would do it again or if they would refer
12 other people in the same situation to use it. It's
13 just a great way of getting to how satisfied people
14 actually are with the program.

15 BOARD MEMBER SAKURAI: Do we know if the
16 schools or the CEC creates a model or a discussion
17 for districts on what is working?

18 So one example might be outside the CEC but
19 the community colleges, that from the first cut
20 appears to be working in terms of how they
21 (inaudible). And are there lessons learned or are
22 there workshops that the CEC does or anything
23 collaborative with the community college districts
24 to glean best practices that can be shared with some
25 of the smaller districts or smaller colleges?

1 MR. BASTIDA: I think that's a good
2 recommendation to make to the Energy Commission. I
3 do know they have an outreach unit of a couple staff
4 that are tasks with trying to outreach to the
5 smaller schools and get them involved in the
6 program, but I don't know if they actually have an
7 event that larger schools can lend advice to the
8 smaller schools, but that would be a great
9 recommendation.

10 BOARD MEMBER SAKURAI: So maybe a request
11 to the CEC for our next meeting to brief the Board
12 on that. What are the efforts and how do they
13 outreach to these more at-need districts.

14 MS. BAUGH: So I just want to point out the
15 state had a model that it's using in all of its
16 other forms right now for disadvantages communities.
17 Those communities are going to coincide with the
18 schools that you're talking about, I think.

19 And then Department of Education, who
20 administers your program, I suspect -- I don't know
21 but I suspect that the people that are doing that
22 will be able to tell you.

23 MR. BASTIDA: Yeah --

24 MS. BAUGH: There will be people that will
25 be able to tell you.

1 MR. BASTIDA: -- the allocation is based on
2 free lunches.

3 BOARD MEMBER SAKURAI: Title 1.

4 MR. BASTIDA: Yeah.

5 MS. BAUGH: So I think there might be some
6 opportunities that exist in those realms as well.

7 CHAIR GORDON: I think it makes sense to
8 have CEC at a minimum back in at our next meeting to
9 talk about what they learned from the last year of
10 the process and to engage in some of these
11 discussions and we can think of questions to ask
12 them ahead of time, that's a good idea.

13 And also I like these other ideas. Jack and
14 I will collect these ideas and we may reach out to
15 some of you.

16 The Coalition for Adequate School Housing
17 is usually also helpful because they have all the
18 facilities managers in the coalition, particularly
19 in the central valley, so then tend to have a lot of
20 -- and Anna Herrera usually here. She's not here
21 today but they tend to have ears to the ground, I
22 would say, about how people are thinking about this
23 program, so they're often useful to have in.

24 But let's think about that for the next
25 meeting since we've finished the report for last

1 year and we're starting a process on thinking about
2 templates and making it easier next year.

3 We have made a major step forward on the
4 audit here. I think our next meeting can be
5 dedicated to some of these bigger questions, so that
6 would be great. And finding a time for it will be
7 very difficult, I think, given peoples' schedules
8 over the summer, but we will work on that.

9 And I just encourage everybody to again, if
10 Jack sends you a Doodle poll please respond to it so
11 that we get to the meetings, which this is a great
12 representation, and thanks to Jack for all that
13 work.

14 I think we can have a motion to -- do we
15 have to move to close or I just close?

16 MS. BAUGH: You just close, yeah.

17 CHAIR GORDON: All right. Unless there are
18 any other comment? Gary, anything else?

19 MR. BASTIDA: I think he stepped out.

20 CHAIR GORDON: Gary's gone, all right.

21 Thanks everybody, the meeting is adjourned.

22 (Adjourned at 11:19 a.m.)

23 --o0o--

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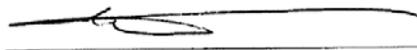
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