

APPEARANCES

COMMISSIONERS

Kate Gordon, Chair, California Citizens Oversight Board

Adrienne Alvord, California Citizens Oversight Board

David Dias, California Citizens Oversight Board

Heather Joy Rosenberg, California Citizens Oversight Board

Barbara Lloyd, California Citizens Oversight Board

Andrew McAllister, Commissioner, California Energy Commission

Michael Murza, Advisor to Chair Weisenmiller, California Energy Commission

ALSO PRESENT

Drew Bohan, Executive Director, California Energy Commission

ENERGY COMMISSION STAFF

Jack Bastida, Associate Governmental Program Analyst

Jennifer Masterson, Fuels and Transportation Division

Elise Ersoy, Local Assistance and Financing Office

Haile Bucaneg, Local Assistance and Financing Office

STATE CONTROLLER'S OFFICE

Lisa Kurokawa, Compliance Audits Bureau, California State Controllers Office

AGENDA

	<u>Page</u>
1. Introduction and Roll Call of Board Members to Determine Quorum	4
2. Approval of Minutes from March 22, 2018 Citizens Oversight Board Meeting	24
3. Update on Legislative Session	7
4. Update on School Bus Replacement Program	8
5. Presentation, Discussion, and Possible Vote On Annual Program Audit on the Clean Energy Job Creation Fund Expenditures	26
6. Public Comment	68

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S

1:11 P.M.

SACRAMENTO, CALIFORNIA, THURSDAY, JULY 19, 2018

CHAIR GORDON: Welcome, everybody, to this meeting of the Prop 39 Oversight Board. I will do the roll call.

Jack, you want to call the names?

MR. BASTIDA: Sure. Kate Gordon?

CHAIR GORDON: Here.

MR. BASTIDA: Mark Gold? Adrienne Alvord?

BOARD MEMBER ALVORD: Here.

MR. BASTIDA: David Dias?

BOARD MEMBER DIAS: Here.

MR. BASTIDA: Barbara Lloyd?

BOARD MEMBER LLOYD: Am I up?

MR. BASTIDA: All right, we'll go back. Randall Martinez? David Dias?

BOARD MEMBER DIAS: You did. Thanks.

MR. BASTIDA: Oh. You want to be here twice.

BOARD MEMBER DIAS: Yeah.

CHAIR GORDON: Yeah. We're just going to double count you; right?

MR. BASTIDA: Yeah, we'll double count

1 you.

2 And Heather Rosenberg, we're waiting on.

3 CHAIR GORDON: No. Heather is on the
4 phone.

5 MR. BASTIDA: Oh, Heather. Heather
6 Rosenberg?

7 CHAIR GORDON: Hi, Heather.

8 BOARD MEMBER ROSENBERG: I'm here.

9 MR. BASTIDA: All right.

10 CHAIR GORDON: Thank you, Heather for --

11 BOARD MEMBER ROSENBERG: Uh-huh.

12 CHAIR GORDON: We're waiting on Barbara.
13 So we have, right now, four Board Members, and we
14 need five for a quorum. And we are hoping
15 Barbara Lloyd will join us when she gets in a
16 room.

17 I also wanted to take a second to thank
18 Commission McAllister for being here from the
19 CEC. And Michael Murza, who is representing
20 Chair Weisenmiller, thank you for being here.

21 Just very briefly, I also wanted to say
22 welcome to our newest Board Member, Adrienne
23 Alvord, who is at Union of Concerned Scientists.
24 Many people may know her from Sacramento, having
25 been a Fran Pavley staffer back in the day. And

1 she and I have been lucky enough to work with her
2 and I'm very excited to have her here.

3 So thank you for joining us, Adrienne.

4 BOARD MEMBER ALVORD: Likewise. Thank
5 you very much, Kate.

6 CHAIR GORDON: Great. All right, we are
7 going to move on to the approval of the minutes.
8 Can I have a motion, or if there's discussion
9 that needs --

10 MR. BASTIDA: We can't, can we?

11 BOARD MEMBER DIAS: Oh, we can't. We
12 can't vote on the minutes. We're going to hold
13 off minutes. We're going to table minutes.
14 Great point. Thank you, Robert's Rules, person
15 to my right.

16 All right, we have just -- our agenda
17 today is mostly focused on two things. We will
18 have an update on the School Bus Replacement
19 Program. We learned about that program at the
20 last meeting, I think, or the one before. Folks
21 may remember that this is the program that uses,
22 under SB 110, uses a portion of the remainder of
23 the funds after the program funds are spent from
24 the first five years of Prop 39. We're also
25 going to have a presentation and, if we have a

1 quorum, a vote on the audit. The audit is one of
2 the main functions of this Board, as you know.

3 Before we move to those two things, I
4 just wanted to very quickly give an update on
5 this past legislative session. Many of you, I
6 know, were watching that.

7 As folks know from our legislative report
8 that we sent to the legislature in March, this
9 program, the original five years of the Prop 39
10 program are over, as in the first five years of
11 guaranteed from the original proposition have
12 ended. That doesn't mean the program has ended.
13 There are many more things to do on the program
14 and a lot of money to go out and a lot of
15 projects to focus on. But the spending, the last
16 deadline for the spending, has ended.

17 There was a senate bill last year, Senate
18 Bill last year which would -- it just effectively
19 extended the ability to have a program, as well
20 as directing remaining funds to the School Bus
21 Program and to ECCA-Ed. SB 110 requires that
22 this program get an annual appropriation in order
23 to have new funds put into it. We,
24 unfortunately, were not able to convince the
25 legislature of the utility of an annual

1 appropriation this year, although we had some
2 very productive discussions in the building and,
3 I think, a lot of engagement from people across
4 the state on the value of the program.

5 So I just want to say that I am
6 disappointed, we as a Board are disappointed. We
7 had recommended in our report to the legislature
8 that the program continue to have appropriations,
9 particularly for the ECCA-Ed program and for the
10 Workforce Pre-Apprenticeship Program, but we're
11 not, unfortunately, able to do that.

12 So, luckily, ECCA-Ed is a revolving fund
13 and we'll continue to have some funds, including
14 remaining funds from this year -- this five-year
15 period. And I think the Department of
16 Workforce -- the Workforce Development Board is
17 trying to figure out a way to continue funding
18 its Pre-Apprenticeship Program through existing
19 funds.

20 But we did not get an additional
21 appropriation. I just wanted to share that with
22 folks. And anyone who wants to ask about that
23 can do in public comment in the meeting, unless
24 anyone on the Board wants to.

25 Hearing none, let's move on to the School

1 Bus Replacement Program from -- a report from the
2 CEC.

3 MS. MASTERSON: Good afternoon.

4 CHAIR GORDON: Oh, you're already there.

5 MS. MASTERSON: I'm already here. My
6 name is Jennifer Masterson and I work in the
7 Fuels and Transportation Division. I'm part of
8 the School Bus team. Also in the room on the
9 School Bus team, if you guys can raise your hand,
10 is Liz Shirakh, you guys know Liz, Sarah
11 Williams, Diana Gonzalez, Michelle Vater, and at
12 the end, Tomas Ortiz.

13 Today I'm going to give you a quick
14 overview of our program with updates. And then
15 all of us are available at the end, if you have
16 any questions.

17 As you know, the Energy Commission
18 received \$75 million in grant funds to be used to
19 replace the oldest school buses in California.
20 The eligible applicants are school districts,
21 county Offices of Education, and recently just
22 added is the JPA. Priority is given to the
23 oldest school buses operating in disadvantaged
24 communities and schools that have the majority of
25 students eligible for free or reduced-price

1 meals. All new school buses must be cost
2 effective.

3 Our program design has three components.
4 The first component is the school bus replacement
5 part, which is divided into two phases. The
6 first phase is to solicit the school district's
7 COEs and JPAs to establish a list of buses
8 eligible for replacement. This is the
9 solicitation that was just released on May 31st.
10 Our second phase is to solicit manufacturers to
11 design, construct and deliver the replacement
12 buses that we determined in the first phase.
13 This will be released later in the year. We also
14 have a workshop on the 24th of July to present
15 our concepts and receive feedback.

16 The second component of our program is to
17 provide fueling infrastructure to support the
18 buses. And lastly, we will provide workforce
19 training and development to awardees who choose
20 electric buses. The infrastructure and workforce
21 training components are being funded from another
22 funding source and is not coming out of the \$75
23 million.

24 Distribution of funds. The \$75 million
25 from SB 110 will fund EV school buses. These

1 funds will be evenly distributed between four
2 regions. An additional \$3.7 million will fund
3 CNG buses, \$165,000 per bus, and CNG renewable
4 fuel is not a requirement. Oops, let me go back.
5 \$13 million has been set aside for installation
6 of EV chargers. We are going to award up to
7 \$60,000 per bus. And the goal is to install of
8 this prior to the buses being delivered. An
9 additional \$2.4 million from ARFVTP will be used
10 to install CNG infrastructure. The school
11 districts, COEs and JPAs will be required to
12 purchase and install the infrastructure using
13 their own established procurement procedures,
14 while adhering to all applicable state and local
15 laws.

16 The evaluation criteria is based on three
17 criterium. The age of the school bus receives
18 the majority of the points, which are 70, 20
19 points for free and reduced-price meals, and 10
20 points for disadvantaged communities.

21 Workforce training and development. Once
22 awards are made and school needs are determined,
23 the Energy Commission will provide workforce
24 training and development. These resources will
25 include best practices for charging, operations

1 of an EV bus, and training for EV maintenance.

2 Phase two of the solicitation is
3 scheduled to be released later in the year.
4 We're having a pre-solicitation workshop on July
5 24th where we will present our concepts and ask
6 for feedback for the school districts, COEs,
7 JPAs, as well as the bus manufacturers. Some of
8 our concepts will include bulk pricing, scoring
9 criteria with preference points for California
10 presence, battery range, warranty and services,
11 and training and infrastructure support.

12 Our schedule is here. Like I said, we
13 released the first part of the solicitation on
14 May 31st. The schools -- we had a pre-
15 application workshop for the school districts on
16 June 12th. We have a pre-solicitation workshop
17 for phase two of the manufacturing solicitation
18 which is on July 24th, next week. The deadline
19 to submit applications for the schools is
20 September 20th. We're going to establish the
21 bulk pricing for electric bus solicitation
22 approximately in October. We plan to award the
23 buses in February, install infrastructure between
24 April and December, and begin delivering the
25 buses in October of 2019.

1 How to stay connected? Here's a link to
2 our School Bus Replacement application. The next
3 link is our School Bus website. And then, of
4 course, our contact information, email address
5 and our hotline number.

6 And that's it, so I can open it up if you
7 have any questions.

8 CHAIR GORDON: Great. Thank you so much.
9 And I'm sorry, I should have recognized, Drew
10 Bohan, who is the Executive Director of the
11 California Energy Commission.

12 Thanks for joining us.

13 All right, Board Members, first, before I
14 ask for questions from you, Barbara Lloyd, have
15 you managed to join us yet? Not yet. All right.

16 I wanted to open it up for questions on
17 the School Bus Program.

18 BOARD MEMBER DIAS: This is -- I guess I
19 approach. Dave Dias. I don't know if I'm
20 supposed to say my name or not because we're on a
21 webinar.

22 You have the \$13 million for EV
23 infrastructure and \$60,000 per awarded school
24 bus, but then below \$2.4 for the clean natural
25 gas, and \$500,000 for each bus or for --

1 MS. MASTERSON: The CNG infrastructure.

2 BOARD MEMBER DIAS: For how many? Per

3 bus or --

4 MS. MASTERSON: No, per location.

5 BOARD MEMBER DIAS: Per location?

6 MS. MASTERSON: Yes.

7 BOARD MEMBER DIAS: Okay. That's what I

8 wanted to know. Okay. Thank you.

9 MS. MASTERSON: Yeah.

10 BOARD MEMBER DIAS: But, oh, wait a

11 minute, one other thing.

12 You could just -- you don't get quite --

13 it doesn't divide equally?

14 MS. MASTERSON: Yeah, that's all we have

15 is the \$2.4.

16 BOARD MEMBER DIAS: Okay. Thank you.

17 MS. MASTERSON: You're welcome.

18 CHAIR GORDON: Just on that same note, is

19 the -- the 75 is from -- oh, I see. The 3.7 is

20 from -- the 3.7 and that \$13 million and all the

21 infrastructure money is all from a different

22 source; is that right? Only the 75 is from that?

23 MS. MASTERSON: Correct. Correct.

24 CHAIR GORDON: Thank you. That is very

25 helpful.

1 One question that I had, just a broader
2 question, we, last meeting that we discussed this
3 program, we had a long discussion at the Board,
4 it's in the minutes from the last meeting, about
5 this program and potential recommendations. And
6 then Vice Chair Gold and I ended up writing a
7 letter just from us, not from the full Board, and
8 wondered if you had any response to that, or have
9 you been able to address those, any of those
10 issues specifically?

11 MS. MASTERSON: Is that the one that went
12 to Commissioner Scott?

13 CHAIR GORDON: Yes.

14 MS. MASTERSON: I believe they responded.
15 I tried to incorporate some of those questions
16 that you had in the presentation. If you have a
17 specific one that you --

18 CHAIR GORDON: It was mostly Vice Chair
19 Gold, who was very focused on some of the
20 technical details.

21 I do remember we discussed -- one
22 question we discussed on the workforce piece,
23 which was how are you allocating those funds on
24 workforce? Is it to existing workers at those
25 sites who can then be responsible for the buses.

1 Are you doing any new worker training? How does
2 that look?

3 MS. MASTERSON: So right now the
4 workforce funds are coming from the ARFVTP, and
5 we have a workforce component already. So our
6 first step is to find out who gets awarded. And
7 then based on where those locations are, we're
8 going to come up with a plan. But most likely
9 we'll be working with the community colleges in
10 the area of the awardees.

11 CHAIR GORDON: Oh, I remember the other
12 big question, which was the big question on how
13 you're evaluating cost effectiveness in this
14 portion of the program. Since it's such a big
15 issue on the other side, on the K-12 Program, how
16 are you thinking through that?

17 MS. MASTERSON: So we have developed -- I
18 will ask Tomas to come up here because he worked
19 on that and so he knows that a little bit better
20 than I do. But we are in just -- since the \$75
21 million is just going towards the EV buses, we
22 just did the cost effectiveness on that piece.

23 Go ahead.

24 MR. ORTIZ: Hi. I'm Tomas Ortiz.

25 (Colloquy)

1 MR. ORTIZ: Okay, yeah, so for the cost
2 effectiveness, what we essentially did was we
3 looked at the expected costs to the CEC. There
4 are other grants out there that can actually
5 stack with ours and actually allow the funds to
6 go further, allowing us to buy even more buses.

7 So we did an evaluation using a 20-year
8 lifespan and assumed costs and determined, based
9 on fuel efficiency, average miles traveled,
10 greenhouse gas reductions, maintenance savings,
11 things like that, you know, looking over a 20-
12 year lifespan, we were able to determine that it
13 is cost effective.

14 CHAIR GORDON: And just so that I
15 understand, the thing I have always heard about
16 school buses, you should tell me if this is
17 wrong, but the assumption is you only use them at
18 the beginning and the end of the day, the school
19 day. They're not used throughout the day, like
20 city buses. Did you calculate -- did you include
21 that assumption into your cost effectiveness
22 projections?

23 MR. ORTIZ: Yes. So we did this using
24 assumed average miles annually, so annually.
25 They travel approximately 13,000 miles a year, so

1 that's how we did it. It wasn't so much how the
2 routes are broken up throughout the day, but more
3 just annually, how they look.

4 CHAIR GORDON: Any other questions on
5 that point from folks?

6 Also, I want to ask Heather to,
7 obviously, weigh in if you have a question.

8 BOARD MEMBER ROSENBERG: Yeah. Thank
9 you. I appreciate it.

10 I think it's pretty clear. We had a
11 discussion about this on the last call-in, so I
12 think that it makes sense to me.

13 CHAIR GORDON: I'm trying to think if
14 there was anything else that Mark would say if he
15 were here.

16 BOARD MEMBER ROSENBERG: I mean, I do
17 have a question about whether to include -- the
18 applications are coming from the districts
19 themselves; right? And they're prioritizing
20 buses that -- I mean, are there safeguards, so
21 we're not just replacing fairly new buses and
22 that they're targeting older buses, or is it just
23 relying on the districts to do that assessment
24 themselves?

25 MR. ORTIZ: Yeah. So part of the

1 application process is that they have to turn in
2 both the registration and the CHP Form 292. So
3 the registration is going to determine the age of
4 the bus and when it was purchased, so we can
5 determine length or ownership, as well. So we're
6 making sure they're not just buying these buses
7 and then using them to apply for a new bus. And
8 the CHP 292 will also determine how many miles
9 were actually traveled in the previous year to
10 make sure that these are buses that are actually
11 on the road, as well.

12 BOARD MEMBER ROSENBERG: Okay. Great.

13 CHAIR GORDON: Commissioner, you wanted
14 to weigh in?

15 COMMISSIONER MCALLISTER: Yeah. So it's
16 very strange to be sitting in this seat. That's
17 my seat over there, you know? Maybe I'll switch.
18 But --

19 CHAIR GORDON: You can move if you want.

20 COMMISSIONER MCALLISTER: Yeah.

21 CHAIR GORDON: We're very lax here.

22 COMMISSIONER MCALLISTER: I should have
23 thought of that, but they put my nametag here.

24 So I guess I wanted to just throw out an
25 idea that -- I mean, I do agree with this. You

1 know, you do need to confirm that they actually
2 do retire those buses that are -- you know, that
3 actually they do -- they are removed from
4 service; right? So I think you have a plan for
5 that.

6 But there may be other opportunities for
7 the -- you know, since we will have electric
8 buses at these schools, they will have -- they
9 will be, presumably, plugged in during the day;
10 right? They'll be used in the morning and used
11 again in the afternoon, so that their duty cycle
12 could favor sort of some renewable integration
13 work. And the schools might actually be able to
14 make some money on that if they play their cards
15 right.

16 And so I guess, you know, maybe there's a
17 sort of innovative business model to be applied
18 at the schools. I see some nodding heads, so you
19 probably already thought about this.

20 MR. ORTIZ: Yeah. We've already started
21 looking into vehicle-to-grid and vehicle-to-
22 building applications, as well as more integrated
23 onsite solutions. So if there's a way that we
24 can also incorporate solar energy and battery
25 storage into this for the infrastructure portion

1 of it, that would help greatly make this even
2 more cost effective.

3 COMMISSIONER MCALLISTER: Or use the
4 buses themselves is a grid resource; right?

5 MR. ORTIZ: Yes. Yeah.

6 COMMISSIONER MCALLISTER: Yeah.

7 MR. ORTIZ: Yeah. So these could be
8 moved to different locations. Say if the school
9 has a power outage, you know, we can take the
10 bus, move it there, plug it in and, you know,
11 take some of the power from the bus.

12 CHAIR GORDON: I was going to ask about
13 emergency generation. Thank you. That's a great
14 point, because these are, basically, just sitting
15 around, being batteries all day long.

16 MR. ORTIZ: Yeah.

17 CHAIR GORDON: So one other question on
18 just your assumption on the 20-year lifespan. I
19 mean, I say this as an electric vehicle owner who
20 leased my vehicle because of the massive
21 improvements in battery technology that are
22 happening, even in a couple of years, what's your
23 sense or what's your thinking about that, about
24 this investment in a technology that could be
25 completely revolutionized, you know, within that

1 20-year lifespan, or is that something that
2 you're thinking through or that this will be
3 thinking through?

4 MR. ORTIZ: Yes. Absolutely so we
5 anticipate that the bodies themselves of the
6 buses are going to last well past 20 years. The
7 batteries are going to be need to be replaced
8 after approximately 12 years, once they, you
9 know, start degrading a little bit. With that,
10 you know, school districts might need to work
11 with their local utilities, you know, especially
12 if we're going to be doing vehicle-to-grid and
13 vehicle-to-battery -- or, excuse me, vehicle-to-
14 building integration here. You know, the
15 utilities are definitely going to want to be
16 involved in this, as well.

17 And in 12 years, you know, we're already
18 seeing that batteries are getting more powerful
19 and smaller. So, you know, when it's time for
20 these batteries to be replaced, they're actually
21 going to become much more efficient by that time
22 and actually make this an even better investment.

23 CHAIR GORDON: Great. That's really
24 helpful. Thank you. And thanks for thinking it
25 through. I'm sure you were anyway. But the cost

1 effectiveness question has always been a big one
2 for us because we're used to thinking of it in
3 terms of the savings-to-investment ratio of the
4 original program. So it's helpful to see another
5 way of looking at it.

6 Just as a reminder to the Board, this
7 program will be part of what we will have to
8 audit in the first year of its existence, and so
9 we will have to audit both the existing program
10 under its current cost effectiveness ratio and
11 this program under this cost effectiveness ratio.
12 So it's good to have a little primer on it right
13 now. Thank you.

14 MR. ORTIZ: Yeah.

15 CHAIR GORDON: Thanks. Other questions,
16 Heather, anyone from the Board?

17 Barbara, have you joined us yet, by
18 chance?

19 MR. BASTIDA: Barbara is online now.

20 CHAIR GORDON: Barbara, say something so
21 we can believe that you're on the line?

22 BOARD MEMBER LLOYD: Can you hear me now?

23 CHAIR GORDON: Yes. Fantastic.

24 BOARD MEMBER LLOYD: Yay.

25 CHAIR GORDON: We have a quorum. I'm so

1 thrilled.

2 We need to go back to -- thank you. My
3 fabulous Robert's Rules, Board Member Dias, next
4 to me is reminding me, we have to go back to
5 approve the minutes, now that we have a quorum.

6 So everyone, I assume the Board Members
7 had a chance to review the minutes. Can we get a
8 motion on these?

9 BOARD MEMBER DIAS: Motion to approve.

10 CHAIR GORDON: Thank you, Board Member
11 Dias.

12 BOARD MEMBER LLOYD: I'm --

13 CHAIR GORDON: Which one is this?

14 BOARD MEMBER LLOYD: I'm happy to second
15 it.

16 COMMISSIONER DOUGLAS: Was that Heather
17 or Barbara?

18 BOARD MEMBER ROSENBERG: That was
19 Barbara.

20 CHAIR GORDON: Great. Thank you.

21 BOARD MEMBER LLOYD: Although, it's all
22 of us.

23 CHAIR GORDON: Oh, everyone. Everyone is
24 seconding.

25 Can we just do a roll call? Because it's

1 too confusing with the phone.

2 MR. BASTIDA: Sure. This is to approve
3 the minutes of the March 22nd, 2018 Board
4 meeting.

5 CHAIR GORDON: Yes.

6 MR. BASTIDA: Kate Gordon?

7 CHAIR GORDON: Yes.

8 MR. BASTIDA: Adrienne Alvord?

9 BOARD MEMBER ALVORD: I think because I
10 wasn't there, I should probably abstain.

11 MR. BASTIDA: Okay. David Dias?

12 BOARD MEMBER DIAS: Yes.

13 MR. BASTIDA: Barbara Lloyd?

14 BOARD MEMBER LLOYD: Yes.

15 MR. BASTIDA: And Heather Rosenberg?

16 BOARD MEMBER ROSENBERG: Yes.

17 MR. BASTIDA: Okay.

18 CHAIR GORDON: Great. Minutes approved.

19 I might just, so I can double check this
20 legal question, am I right that Adrienne has to
21 abstain on everything today, or can she vote?

22 MR. BASTIDA: She can vote.

23 CHAIR GORDON: Great. All right. Not on
24 the minutes, you can't, but you can on the audit,
25 if you are so moved to vote.

1 Great. Thank you. And thank you again,
2 everyone, for being so patient about this. Just
3 a lot of things have happened to a lot of people
4 associated with the Board in the last two days
5 and it was challenging to get everyone here.

6 All right, we are going to move on.
7 Thank you, Jennifer.

8 We're going to move on to the audit
9 conversation. Again, this is a report on the
10 audit from the Controller's Office and one of the
11 main activities of this Board.

12 And, Barbara, I'm very glad you're on,
13 because Barbara has been a very important liaison
14 to the auditors from this Board. So, Barbara,
15 I'm hoping you will chime in whenever you see
16 fit. Great.

17 BOARD MEMBER LLOYD: Okay.

18 CHAIR GORDON: Thanks.

19 (Background telephone conversation.)

20 CHAIR GORDON: Barbara, can you actually
21 mute while you're not speaking? Because we're
22 hearing background.

23 BOARD MEMBER LLOYD: All right. I'm
24 doing that right now.

25 MS. KUROKAWA: Hello. Good afternoon,

1 Chair and Board Members. Thank you for allowing
2 the State Controller's Office to present our
3 audit results. My name is Lisa Kurokawa. I am a
4 Bureau Chief of the Compliance Audits Bureau at
5 the State Controller's Office, Division of
6 Audits. Today I'm going to be giving you an
7 update on the program audit of the California
8 Clean Energy Jobs Act.

9 So under the authority of the interagency
10 agreement between the Citizens Oversight Board
11 and the Controller's Office, we conducted a
12 program audit of the Job Creation Fund. Our
13 audit report was issued on Friday, July 13th, so
14 just last Friday.

15 Our audit was conducted in two phases, so
16 I'll discuss phase one first.

17 Phase one of our audit was to audit a
18 selection of completed projects to determine
19 whether the energy projects were consistent with
20 the Jobs Creation Fund's programs guidelines. So
21 as she has up there on the board, through June
22 30th, 2017 there were 69 local educational
23 agencies and 36 community college districts that
24 reported completed projects. So from this
25 listing of a total of 105, we selected 20

1 districts for testing. So of the 20 districts we
2 went to, 16 were LEAs and 4 were community
3 college districts. So in total, of the 20
4 districts, we audited about \$20 million out of
5 \$54 million, so it's about 38 percent of the
6 reported project costs we audited.

7 The objective of our testing at the
8 districts was to determine the districts'
9 compliance with the various Public Resources
10 Codes. We have identified four audit findings at
11 the districts.

12 The first finding, we found that seven
13 local educational agencies sole-sourced a portion
14 of their project costs when awarding the Prop 39
15 contracts, which is a violation of Public
16 Resources Code 26235(c). And we have identified
17 those seven agencies on page 12 of our audit
18 report. So in our audit report, she has those
19 seven pages up, in our audit report, we
20 recommended that the California Department of
21 Education take appropriate action in response to
22 funds paid to these seven districts that did not
23 meet the no-sole-source requirement.

24 And then finding two, we found that 12
25 local educational agencies and 3 college

1 districts, totaling 15, did not include the
2 projected energy savings in their awarded
3 contracts, which is a violation of Public
4 Resources Code 26206(d). And she has the 15
5 listed up there. We recommended in our audit
6 report that these districts comply with the
7 Public Resources Code sections and include the
8 energy savings in the awarded contracts.

9 Finding three, we found that two LEAs
10 applied their Prop 39 funds to project costs
11 incurred prior to the eligibility period. So in
12 total, we found about \$335,000 to be ineligible.
13 And we recommended in our audit report that
14 Department of Education take appropriate action
15 in response to funds paid that are not eligible
16 for Prop 39 funding.

17 Finding four, we have four LEAs that
18 submitted their final project completion reports
19 after the deadline, which is a violation of
20 Public Resources Code section 26240(b). LEAs are
21 required to submit their final project completion
22 reports to the CEC 12 to 15 months after their
23 projects have been completely installed. And
24 then we identified the four there. And you can
25 see, the months vary from 18 months to 31 months

1 after project completion. And we recommended in
2 our audit report that the LEAs comply with the
3 Public Resources Code and submit their reports no
4 later than 15 months after project completion.

5 And then a second phase of our audit was
6 to review the Energy Commission's controls over
7 implementation and administration of the Job
8 Creation Fund. So we found that of the 16 LEAs
9 that we went to, one of them -- they all
10 submitted Energy Expenditure Plans, of which one
11 was improperly reviewed and approved by the
12 Energy Commission. It resulted in an overpayment
13 of funds to that one LEA. Specifically, we found
14 that the CEC did not consider total project costs
15 and leverage funds when reviewing and approving
16 the EEP, resulting in an overpayment of \$47,000
17 to that LEA.

18 I will say, that LEA did amend their EEP.
19 They worked with the Energy Commission during
20 audit field work, amended their EEP to the
21 reduced amount, and submitted a revised final
22 plan, and then submitted a new EEP to spend that
23 remaining overpayment, so that's where we're at.

24 So this is the conclusion of my
25 presentation. I'm available to answer any

1 questions you may have.

2 CHAIR GORDON: Thank you so much for
3 that. I'm sure we have a lot of questions. I
4 wanted to give Barbara just a chance for any,
5 because you've worked more closely than the rest
6 of us with the auditors. Any chance for a
7 reaction or thoughts on any of these issues? And
8 then wanted to give the CEC a chance to react to
9 its issue before the larger discussion.

10 So, Barbara, do you want to weigh in
11 here?

12 BOARD MEMBER LLOYD: I think that the
13 Controller's Office has, as I understand it, done
14 a good job of allowing people to skewer what they
15 could in terms of it being in record keeping and
16 the like.

17 CHAIR GORDON: Barbara, you're breaking
18 up.

19 BOARD MEMBER LLOYD: Are you --

20 CHAIR GORDON: You're breaking up. I'm
21 not sure why.

22 BOARD MEMBER LLOYD: Yes. There was a
23 lot of echo.

24 CHAIR GORDON: It's better.

25 BOARD MEMBER LLOYD: Okay. I think

1 there's also opportunities for some of these
2 districts to appeal findings. And maybe the
3 Controller's Office would like to speak to that.

4 MS. KUROKAWA: Sure. You know, we have
5 identified finding one with the sole-source issue
6 and finding three as ineligible costs. They
7 have -- finding one and three, we considered to
8 believe monetary dollar framings. And districts
9 have the ability to appeal to the Education Audit
10 Appeals Panel on these findings, anything, a
11 portion that's significant.

12 So we have no problem with them
13 appealing. And we identify that option available
14 to them in the audit report.

15 CHAIR GORDON: Do you know if any of the
16 schools that you identified last year,
17 specifically on the sole-source issue, have
18 appealed? Do you know if that process has
19 happened?

20 MS. KUROKAWA: Yeah. So I will say,
21 finding one and finding three are similar
22 findings to our last year's audit report.
23 They're kind of repeat findings, just at
24 different districts. Last year, we had, I
25 believe, four LEAs that sole-sourced their

1 project costs. And I can tell you for a fact
2 that one filed a summary review with the
3 Education Audit Appeals Panel. And the Education
4 Audit Appeals Panel waived the finding in terms
5 of the monetary reimbursement. So the Education
6 Audit Appeals Panel uses a lower standard of --
7 they go by substantial compliance.

8 So the Panel waived, I believe it was
9 Happy Camp, I think Union Elementary School
10 District, they waived the reimbursement of their
11 monetary finding, I think it was about \$184,000
12 last year, because they demonstrated substantial
13 compliance with Public Resources Code sections.
14 And I think they submitted a corrected action
15 plan.

16 And then I believe another district filed
17 a summary review. I have not gotten those
18 results back. And then I know Bonsall Unified
19 submitted -- filed a formal appeal. And they
20 didn't go the summary route, they went straight
21 to a formal appeal, and that just transpired. So
22 presume what happened at Happy Camp, with that
23 finding kind of being waived, may possibly happen
24 for the others, but they have to file an appeal.

25 So we use a strict -- we audit strictly

1 to the Public Resources Code sections. The
2 Education Audit Appeals Panel uses a lower
3 standard of -- they go by substantial compliance,
4 we go by compliance.

5 So I'm reporting the facts. That's my
6 requirement under Yellow Book Audit Standards.

7 VICE CHAIR GOLD: Under the formal
8 appeal process, is there any possibility that
9 there's some sort of legal determination of sole-
10 source, meaning something more broader than the
11 Public Resources Code? I know we've had this
12 conversation a lot of times. I'm just trying to
13 figure out how to reconcile the --

14 MS. KUROKAWA: I don't know that the --
15 you have to go to the Appeal Panel for that
16 answer. I don't know that they audit to -- they
17 define what sole source is. I think they just go
18 by what education -- they use a different
19 criteria in Education Code as long as the
20 district demonstrates compliance or substantial
21 complaint.

22 CHAIR GORDON: With the Public Resources
23 Code or --

24 MS. KUROKAWA: With --

25 CHAIR GORDON: -- with something else?

1 MS. KUROKAWA: -- with the Code section,
2 Public Resources Code. I would have to go to the
3 Appeal Panel for more information on that.

4 CHAIR GORDON: Okay.

5 MS. KUROKAWA: In terms of ineligible
6 costs, we had that finding three regarding the
7 districts last year. I think it was Nuvview Bridge
8 Early College High School. They incurred the
9 costs prior to the eligibility period. I believe
10 they remitted the funds back. I don't think the
11 finding was appealed at all. And they remitted
12 that money back.

13 BOARD MEMBER DIAS: When you were
14 originally talking you said something about that
15 when you audited, you didn't do the whole entire
16 school district, you only audited certain
17 projects, is this true, or did you do every
18 project that they did, that they completed?

19 MS. KUROKAWA: We tested -- we reviewed
20 invoices -- so we went to 20 districts out of
21 like 105. So of the 20 districts, we only
22 audited their Prop 39 funding. And we looked at
23 like documentation, like invoices, the contract
24 agreements for just the Prop 39 portion.

25 BOARD MEMBER DIAS: All of it?

1 MS. KUROKAWA: All of it.

2 BOARD MEMBER DIAS: Okay. That's good.

3 MS. KUROKAWA: So when we said that we
4 audited \$20 million, we looked at documentation
5 to support \$20 million.

6 BOARD MEMBER DIAS: Thank you.

7 CHAIR GORDON: Jim is just, who is at
8 home for various reasons, is just reminding me
9 that we have a representative from CDE actually
10 on the line.

11 So, Derrick Andrade, you're on the line,
12 am I right about that?

13 MR. ANDRADE: Yeah. Good afternoon
14 everyone. This is Derrick Andrade.

15 CHAIR GORDON: Great, Derrick. Thank you
16 for being on the line. Since you're here just --
17 and before I go to the one point on this list
18 that's CEC related, several of the points in the
19 audit refer to your agency for remedies. And I'm
20 wondering if you want to react to any of those
21 points and give us any information on how you're
22 planning to do that, what you saw from last
23 year's audit, et cetera? Derrick? Oh, yeah, now
24 we can hear you.

25 MR. ANDRADE: Okay. From the

1 Controller's report, it sounds like findings one
2 and three have a finance component to it, similar
3 to the prior year's audit. And so I my -- I have
4 a question.

5 Were the LEAs issued a letter, similar to
6 how it was done last year, notifying them of
7 their appeal rights?

8 MS. KUROKAWA: On this audit, no. If you
9 look on the audit report, page --

10 MR. ANDRADE: I don't have the audit
11 report.

12 MS. KUROKAWA: Oh, okay. Yeah, they
13 were --

14 MR. ANDRADE: Did you send that to our
15 department?

16 MS. KUROKAWA: Yeah. It went in the
17 mail.

18 MR. ANDRADE: Okay.

19 MS. KUROKAWA: You guys should have
20 received a copy of it by now.

21 The first page of it, the transmittal
22 letter of our audit report identifies findings
23 one and three as being a portion that's
24 significant. And we let them know that they
25 have -- what their summary -- the ability to file

1 an Education Audit Appeal summary review or a
2 formal review.

3 MR. ANDRADE: Okay. So it's included in
4 the report?

5 MS. KUROKAWA: Yeah. Last year --

6 MR. ANDRADE: And so there would not be a
7 special letter that --

8 MS. KUROKAWA: No. Last year --

9 MR. ANDRADE: -- goes out?

10 MS. KUROKAWA: -- we sent out a special
11 letter. This year, we included it in the audit
12 report. And we specifically identified finding
13 one and three.

14 MR. ANDRADE: And that audit report is
15 also going to each of the districts?

16 MS. KUROKAWA: Yeah. It's going to every
17 district, every district superintendent, the
18 president of the board, as well as the county
19 Office of Education.

20 MR. ANDRADE: Okay. And I think -- so
21 how -- thank you for answering that question.
22 And I think we'll look at the audit report, you
23 know, once it's available and, similar to last
24 year, after the LEAs have an opportunity to
25 appeal that or not, then we'll invoice as needed.

1 MS. KUROKAWA: I guess, Derrick, I think
2 the question I have is: Do you have any follow-
3 up to last year's audit from June 30 or 2017?

4 Have you guys invoiced any of those districts?

5 MR. ANDRADE: Yes. We've -- we have
6 invoiced them. We're still waiting for Bonsall
7 now, who is filing the --

8 MS. KUROKAWA: They filed the formal
9 appeal recently.

10 MR. ANDRADE: -- a formal appeal. Right.
11 So we got notification of that. So, yeah, so all
12 of the other ones have -- we've invoiced and
13 they've returned the funds.

14 MS. KUROKAWA: Which districts are those?

15 MR. ANDRADE: Let me see. Let me find
16 that.

17 CHAIR GORDON: Derrick, do you need a
18 second to find that? I can deal with something
19 else.

20 MR. ANDRADE: Yeah. I don't have that.
21 I don't have that exactly at my fingers right
22 now, but we've issued the invoices and I can pull
23 that up and send it.

24 MS. KUROKAWA: Can --

25 MR. ANDRADE: And I've provided that for

1 the Commission, as well.

2 CHAIR GORDON: Okay. Well, can you
3 actually -- it would be very helpful, I think, to
4 us as the responsible auditors of this program,
5 could you provide us with like a one-page kind of
6 overview of what the response was taken from the
7 last audit and what has happened with those
8 districts? I think this is the first time we're
9 hearing that. It's great to hear that things
10 have moved forward, but it would be very helpful
11 to have that in writing, if you could do that?

12 MR. ANDRADE: Sure. And should I send it
13 through Jack?

14 CHAIR GORDON: Yeah, that will be great,
15 Jack and Jim, if you have their info. But Jack
16 is definitely -- can get it to us. Thank you.

17 MR. ANDRADE: Sure.

18 CHAIR GORDON: And also the Controller's
19 Office.

20 MR. ANDRADE: And to the SCO --

21 CHAIR GORDON: Before --

22 MR. ANDRADE: -- as far as the recovery
23 of the funds.

24 CHAIR GORDON: Yeah. Exactly. So on the
25 items from last year, I don't remember what they

1 were numbered last year, but on sole source and
2 on spending before -- items one and three last
3 year, as well -- on spending before the term of
4 the program. If you could just give us an
5 overview of who's appealed, who has sent in a
6 summary --

7 MS. KUROKAWA: Just a summary review --

8 CHAIR GORDON: -- a summary review --

9 MS. KUROKAWA: -- of who's filed a formal
10 appeal --

11 CHAIR GORDON: -- and -- right --

12 MS. KUROKAWA: -- and what those results
13 are.

14 CHAIR GORDON: -- and what the results
15 are and then to what -- and to whom you've
16 actually invoiced and whether you've gotten
17 payment. That would be very helpful. That way
18 we'll be able to see the results of the audit
19 from last year and better understand sort of that
20 process.

21 MR. ANDRADE: Sure. No problem.

22 CHAIR GORDON: Thank you. Moving -- and
23 thank you again for being on the line. We really
24 appreciate it.

25 Just so that I'm clear, the formal review

1 and the summary review, those are both CDE
2 processes; right? You run that process --

3 MR. ANDRADE: No.

4 CHAIR GORDON: -- is that right?

5 MS. KUROKAWA: No, they don't.

6 MR. ANDRADE: No.

7 CHAIR GORDON: No? One of them --

8 MR. ANDRADE: No.

9 CHAIR GORDON: -- is a Controller
10 process?

11 MS. KUROKAWA: No. It's --

12 MR. ANDRADE: There's a --

13 MS. KUROKAWA: Go ahead Derrick.

14 MR. ANDRADE: Okay. There's a separate
15 entity, the Education Audit Appeals Panel, and
16 they review that. And so the districts appeal
17 through that entity.

18 MS. KUROKAWA: And they can file a
19 summary review within a certain period of time,
20 and that's just pretty -- more informal. And
21 then if they don't file a summary review, they
22 have the ability to file a formal appeal.

23 CHAIR GORDON: And you remind us, and is
24 it in the letter that you sent to the LEAs, how
25 much time they have to do those processes?

1 MS. KUROKAWA: So they have 30 days from
2 the date of the postal service delivered --
3 delivery of our audit report to request a summary
4 review of any of the findings on the grounds of
5 substantial compliance. And then -- I have it in
6 the audit report. It's kind of specific. And
7 then they have the -- if the over -- if the
8 summary review gets -- if they lose that appeal,
9 then they can file a formal appeal. And then
10 agencies, if they want to go straight to a formal
11 appeal, I believe they have the ability to do
12 that, as well. And I don't know if there's a
13 timeline on the formal appeal. I'm not --

14 CHAIR GORDON: Okay.

15 MS. KUROKAWA: -- familiar with that
16 process.

17 CHAIR GORDON: Great.

18 MR. ANDRADE: I believe it's 60 days --

19 MS. KUROKAWA: Okay.

20 MR. ANDRADE: -- for the formal appeal.

21 CHAIR GORDON: Great. Thank you. The
22 key for me is that they were informed of this in
23 your letter to -- each of the LEAs was informed
24 of the issue that you were raising in one and
25 three?

1 MS. KUROKAWA: Yeah. So on our year-one
2 audit report issued June 30th of '17, we did not
3 include that appeal information in the audit
4 report. And so we sent all five districts a
5 follow-up letter. This is our -- this report
6 that we issued last Friday, July 13th, 2018 has
7 all of that information included in the audit
8 report in the transmittal letter, the first two
9 pages of the audit report.

10 CHAIR GORDON: Great. Thank you for
11 doing that. That's very helpful.

12 I want to go to Board questions. But
13 first, I want to give, because Drew is here and
14 being very patient, I want to give -- if you want
15 to say anything, Drew, or Commissioner, just in
16 terms of CEC's response, I know you wrote a
17 letter in response on the one item that was
18 related to CEC, so do you want to weigh in on
19 that?

20 BOARD MEMBER MCALLISTER: I mean,
21 Executive Office has sort of managed the process
22 from our perspective. And I think, you know,
23 they've done a good job and responded to the
24 pieces that we had to.

25 I don't know if, Drew, you what to add?

1 The letter that the Executive Director
2 wrote is in your packet. So any -- I believe
3 we've addressed the issues that were found on
4 that.

5 Drew?

6 MR. BOHAN: Thank you, Commission
7 Members. Yeah, I just wanted to respond. I did
8 send a letter on July 5th. Drew Bohan,
9 B-O-H-A-N.

10 I did send a letter on July 5th back to
11 the Controller's Office. We got a heads-up on
12 the one portion of the audit that was related
13 specifically to the Energy Commission. I just
14 got the full packet yesterday. And our response
15 was basically, yes, this anomaly you discovered
16 was -- we agree. That's right, this about
17 \$40,000 discrepancy was accurately identified.
18 We fixed it. There was no money paid out to the
19 school in excess of what they were entitled to.
20 So CDE did not pay them that money. We went and
21 found other projects that were appropriate and
22 handled it that way.

23 In addition, we, very soon after that
24 particular project had come in, we switched over
25 to a new automated system. And so this is one of

1 the artifacts of a manual system where we were
2 looking through spreadsheets. Staff is now going
3 back and looking at every single one of the ones
4 that we approved using the manual system to make
5 sure there aren't other issues.

6 CHAIR GORDON: Thank you. And thank you
7 for your prompt response to that issue. We
8 really appreciate it. And I know there's a lot
9 of things to manage here.

10 We did appear -- notice that Clovis is on
11 all of your lists for all of the findings. And
12 that's striking, trying to figure out what's
13 going on there. I don't know if you have any
14 insight into that from the CEC or whether that's
15 a small district or just something we should be
16 paying attention to.

17 MS. KUROKAWA: I don't know what to say.
18 Findings one through four affected Clovis Unified
19 School District. I don't know the size of it.
20 If we want to talk specifically about Clovis, I
21 would have to refer to page -- if we can go to
22 page 24 of the audit report? Yeah. It looks
23 like they received about \$3.3 million. And we
24 found that they only sole-sourced about \$20,300
25 of their planning funds. So it's -- I mean, they

1 received a fair amount and they spent it on, it
2 looks like at least, you know, probably a dozen
3 different school sites. And we have the specific
4 responses there. Yeah, I guess I just don't.

5 CHAIR GORDON: No worries. It just was a
6 side note. They got a good SIR, though, so, I
7 mean, that's something.

8 MR. BOHAN: Chair?

9 CHAIR GORDON: Uh-huh?

10 MR. BOHAN: If I may add just one
11 perspective, and that is I think this is clear
12 from the audit, but, you know, we're still
13 relatively early in the program in terms of
14 completed projects. So the universe of completed
15 projects is fueled in 70. And so to call this as
16 credit, I don't know why they appealed on a
17 couple of the audits, but they got the work
18 relatively quickly. So they are one that was
19 reviewed a couple times.

20 CHAIR GORDON: That is helpful and fair.
21 Thank you.

22 Other questions from the Board? I have a
23 couple of higher-level questions, but others?

24 Adrienne, you're new to all this. Do you
25 want to ask any clarifying questions about the

1 audit or the process?

2 BOARD MEMBER ALVORD: Not at this time.

3 CHAIR GORDON: Barbara or Heather?

4 BOARD MEMBER ROSENBERG: I mean, I can --

5 I'm new to this kind of program, and so I'm just

6 trying to evaluate --

7 MR. BASTIDA: Heather --

8 BOARD MEMBER ROSENBERG: -- whether

9 this -- can you hear me? I'm really echoing.

10 CHAIR GORDON: Yeah. We just -- we were

11 trying to figure out if it was -- who it was, but

12 we figured out this is Heather speaking.

13 BOARD MEMBER ROSENBERG: It's Heather,

14 yeah.

15 Is this the order -- you know, is this

16 the typical level of problem that you see? Is

17 this, you know, alarming? Is it big? Is it

18 small? I don't have the context to know. It

19 looks like a lot of challenges.

20 MS. KUROKAWA: Well, I mean, in terms of

21 context, I mean, we had the same findings year

22 one as we did on this audit report. This report,

23 we actually added two additional findings, one

24 being finding four with the annual reports, the

25 final project reports not submitted timely, and

1 the issue with the Energy Commission. So these
2 are repeat findings from last year.

3 In terms of like significance, you know,
4 we audited about \$20 million. And if she would
5 go to page eight, scroll up and go to page eight
6 of our audit report, specifically for LEAs, we
7 audited 17 -- the third column -- we audited
8 \$17,415,000 and we identified \$835,000 as being
9 unallowable, with either the sole-sourcing or
10 ineligible costs. I guess that's the best
11 context I can give you.

12 BOARD MEMBER ROSENBERG: That's helpful.
13 I mean, I guess then the question is, you know,
14 what kind of steps need to be in place to adopt
15 this? But I think that we'll get to that, post
16 this meeting, to understand the nature of the
17 problem.

18 CHAIR GORDON: And let me give context,
19 also, from last year because we had --

20 BOARD MEMBER ROSENBERG: Thank you.

21 CHAIR GORDON: -- a lot of
22 conversation -- sure, thanks, Heather -- a lot of
23 conversation about the sole-source issues
24 specifically after last year's findings, and I
25 just wanted to give context, two things.

1 One is that after that finding we asked
2 and the CEC did emphasize with LEAs that sole
3 source is not allowable under the Public
4 Resources Code. That was a communication that
5 happened and education that happened.

6 The issue with the sole-source
7 contracting is not, we think, just people
8 wantingly ignoring the law. There is a valid
9 discussion among lawyers about what is meant by
10 sole source in this context. And the
11 Controller's Office has a perspective on that is
12 because they go with the Resources Code language.
13 Other lawyers or other agencies have different
14 perspectives. This is an active conversation
15 among the lawyers.

16 So I just wanted to say that it's -- one
17 of the reasons we're emphasizing the appeal
18 process is so that that can get hashed out for
19 each of the LEAs, because we can't -- we're not
20 lawyers. We can't determine what the right
21 answer is to that question, but it is an active
22 debate. And the Controller's Office has taken
23 the most strict reading of the Public Resources
24 Code, as is appropriate. But the appeal can lead
25 to some discussion of what that means in

1 individual districts.

2 I hope that's a fair representation.

3 BOARD MEMBER MCALLISTER: Yeah. I mean,
4 I would just add, there are standard practices
5 that a lot of public entities, including school
6 districts, use to sort of leverage each other's
7 procurements. And so there's an established
8 practice that's perfectly legal that they use to
9 do that. And so a lot of them are in that habit
10 of sort of, you know, as an efficiency measure
11 and kind of to help each other out.

12 So when this statute came in and sort of
13 said, you know, specified no sole sourcing, there
14 are different interpretations about -- because
15 the original, the sort of standard practice at
16 the schools is it satisfies other definitions of
17 sole source, so --

18 CHAIR GORDON: Right. There's also
19 another statute on the books that says energy
20 contracts do not -- that energy contracts can be
21 sole sourced in the state. So there are all
22 kinds of conflicting readings here. And the
23 lawyers and all relevant agencies have all gotten
24 together to discuss this multiple times.

25 So I just wanted to reassure the Board,

1 especially the new members, that this is not --
2 we don't -- I, at least, don't think this is a
3 situation where people are just ignoring what
4 everyone is saying about educating around the
5 statute. I do think that it's an active
6 discussion. And it's particularly important that
7 we highlight the appeal process in order to try
8 to get at it, so thank you again for doing that.
9 Last year we, the Board, actually was involved in
10 the discussions about sending out those
11 additional letters and making sure that happened.
12 And this year, I'm very happy to see that this is
13 in the actual letter, so thank you for doing
14 that.

15 Good question, Heather.

16 Other questions that -- and please feel
17 free, new Members, to ask questions like that.
18 Because we have several new members, so no
19 question is a dumb question.

20 And on that note, Adrienne?

21 BOARD MEMBER ALVORD: I may move you
22 wrong, but I'm curious because --

23 MR. BASTIDA: Turn your mike on.

24 BOARD MEMBER ALVORD: Hi there. I'm
25 curious because the L.A. finding on -- or the

1 finding on the projected energy savings and award
2 contracts, I know that probably doesn't cause as
3 much concern as the financial stuff. But given
4 this is the purpose of the awards, I sort of went
5 through it and it looked like a lot of the folks
6 just didn't see it or that was the problem. I
7 wondered if this was consistent with the last
8 audit you did. And, you know, because it was
9 such a high number, if there's anything that we
10 need to do differently?

11 MS. KUROKAWA: So last year we had 15, as
12 well, the exact same. I believe it was the exact
13 same number. So this is a pretty consistent
14 pattern. And I believe the Energy Commission,
15 we've talked to them, have, after last year's
16 audit being 15 out of 20, I believe that they
17 went and did an email blast. They have it in
18 their guidelines, as well, that they need to
19 include the savings. They did an email blast
20 after the audit. I believe that, you know,
21 we've -- the information has been disseminated as
22 best we can.

23 CHAIR GORDON: Can we clarify on this,
24 though, and maybe CEC can clarify, the energy
25 savings is also part of the project review;

1 correct? So we know what the projected energy
2 savings are --

3 MS. KUROKAWA: Correct.

4 CHAIR GORDON: -- somewhere? It's just
5 that --

6 MS. KUROKAWA: It's --

7 CHAIR GORDON: -- it's supposed to be in
8 the contract; is that right or is --

9 MS. KUROKAWA: Correct.

10 CHAIR GORDON: -- that incorrect?

11 MS. KUROKAWA: That's correct. All these
12 agencies know what the energy savings is. I
13 mean, that's why they to do -- like the SIR is
14 very important. They know what the projected
15 energy savings amount is. It needs to be in the
16 contract per the code section.

17 COMMISSIONER MCALLISTER: And you --

18 MS. KUROKAWA: So we audit --

19 COMMISSIONER MCALLISTER: So you --

20 MS. KUROKAWA: -- to the plain language
21 of the law.

22 COMMISSIONER MCALLISTER: Sorry. So
23 you're talking about a contract with the
24 contractor that's actually doing the work; right?
25 So this is a number that they report to us. We

1 won't approve a plan without that number. And
2 then it goes out, back to the school, and they
3 implement. And they're supposed to put that
4 number in the contract with the implementing
5 contractor.

6 BOARD MEMBER ALVORD: And, presumably,
7 that's to hold a contractor accountable if it
8 doesn't work.

9 MS. KUROKAWA: Right. My understanding,
10 a lot of the contractors don't want to have that
11 in their contract because they --

12 BOARD MEMBER ALVORD: I saw that.

13 MS. KUROKAWA: -- like I said in the
14 finding two, they don't control building
15 operations, whether -- or changes to the hours of
16 the facilities, so they don't like to have that
17 in there. And -- but it's something that if
18 you're going to receive Prop 39 funding, it's in
19 the code section, they need to do it, so we
20 adhere to that.

21 CHAIR GORDON: Is it -- I believe there
22 are some energy savings contractors who won't put
23 it in, I mean, that it's a practice that they
24 refuse to put it in. Do we know if there's
25 any -- I mean, is there anything that we can do?

1 We just may keep seeing this finding.

2 COMMISSIONER MCALLISTER: So there's
3 Staff in the room that, I think, has a more
4 intimate relationship with these applications.
5 And maybe if Elise or another staff member could
6 get on and --

7 CHAIR GORDON: Elise, give your name
8 first please?

9 MR. BASTIDA: Turn your mike on.

10 MS. ERSOY: Elise Ersoy. I manage the
11 Local Assistance and Financing Office.

12 What I'd like to differentiate here, so
13 when an LEA submits an EEP to the Energy
14 Commission, yes, they put in their estimated
15 savings based on an energy audit. We then ensure
16 that it's cost effective, meets our savings-to-
17 investment ratio and so on. Then we tell CDE,
18 they've been approved.

19 Once the contract -- once they receive
20 those funds and the contracting happens, the
21 sole-source that we were talking about, once they
22 go through the contracting process, I believe,
23 and Lisa can correct me, but I believe that is
24 where this number is missing. So it's not that
25 we don't have an estimated, it's in the actual

1 contract. That's -- and I don't know if that
2 clears everything up.

3 CHAIR GORDON: No, we understand that.

4 MS. ERSOY: Okay.

5 CHAIR GORDON: I think the question is --
6 we're just trying to figure out, right, we're
7 just trying to figure out how to -- this will
8 keep happening if there are contractors who
9 refuse to put that number in their contracts, so
10 we're just trying to figure out, is there
11 anything that can be done --

12 MS. ERSOY: We're happy to do --

13 CHAIR GORDON: -- about that?

14 MS. ERSOY: -- more e-blasts. We're
15 happy to do, you know, more outreach.

16 CHAIR GORDON: Can you --

17 MS. ERSOY: I don't know if the -- if CDE
18 has any oversight of those contracts.

19 MR. ANDRADE: No, we do not.

20 MS. ERSOY: Okay.

21 CHAIR GORDON: Can you put in your -- I
22 don't know if this would help, it's just a
23 thought. Is it possible to put in your approval
24 of the project a reminder that that number has to
25 be in the contract? I assume they're going to

1 read that, probably.

2 MS. ERSOY: We could. I'm going to have
3 Haile -- Haile's our lead, our technical lead
4 here.

5 MR. BUCANEG: Hello. Hello. My name is
6 Haile Bucaneg, and I was working on the program,
7 as well.

8 In our application, we do ask that the
9 LEA self-certifies some information, basically,
10 as they're going forward, such as reporting. And
11 one of the new self-certification items that we
12 put in after the first round of findings was that
13 they had to -- that their contract was to include
14 this information, so that's in there. We can --
15 the only thing that I can really think is to do
16 continual e-blasts out to the LEA.

17 Or, I guess, also in -- when we
18 approve -- well, that's not going to work at this
19 point. I was going to say, when we approve an
20 EEP, we can put it into our approval letter. We
21 have a template approval letter that goes out,
22 but we've already reached the end of our
23 application process, which was June 30th, so that
24 wouldn't help at this time.

25 CHAIR GORDON: And the remedy you have in

1 here, Lisa, is to put it in the contract. Can
2 they actually do that? I mean, you're going
3 back -- you can't actually go back and amend a --

4 MS. KUROKAWA: Well, it --

5 CHAIR GORDON: -- prior contract; right?

6 MS. KUROKAWA: Correct. You can't amend
7 a prior contract. But, I mean, it's conceivable
8 they may have pending EEPs with the Energy
9 Commission, and we want to have them implement
10 that, if there's any future contracts.

11 COMMISSIONER MCALLISTER: I guess, I
12 mean, this is, so, yeah, this is where like, you
13 know, program design and sort of rules meet
14 reality in the marketplace. And so it's a
15 very -- it's, actually, not unexpected at all
16 because you have such a diversity of school
17 districts and you have a standard practice,
18 that's just the way business is done. And if
19 we're asking people to do it in a slightly
20 different way then, you know, some -- it's going
21 to fall through the cracks in some place, which
22 is not to excuse it all, obviously.

23 But I think it's sort of a continual
24 improvement kind of thing where, you know, it
25 would be good for contractors to get used to this

1 kind of thing out there in the market, to
2 actually be more accountable. And so that's a
3 good policy that's in the program, but it's just
4 not standard practice.

5 And so I think partly, this is just a
6 market evolution impetus that the program is
7 actually trying to get done, so it's kind of the
8 nature of the beast. You know, we're expecting
9 accountability, more than the standard practice
10 in the marketplace, and that's a good thing.

11 MR. BUCANEG: Right. And just one thing
12 that Elise pointed out is we do have, as you
13 mentioned, we have a number of EEPs that are
14 still in construction, so we do have contact
15 information from those LEAs. We can try and take
16 a look and see if we can do any additional
17 contact with those LEAs, just to remind them
18 about this item, so --

19 CHAIR GORDON: Is there any way to
20 educate the contractors? I don't know if anyone
21 has that list or that outreach function, but that
22 seems like part of the issue here.

23 MR. BUCANEG: The only way I can think of
24 is through the e-blasts. We do have some
25 contractors that are listed as part of our

1 contact information from the Energy Expenditure
2 Plan application. If we send out emails through
3 that, those guys will receive that.

4 But, yeah, the only other way outside of
5 that would be to use our e-blast function. And
6 that would be dependent on if the contractors
7 signed up for our listservs.

8 BOARD MEMBER ALVORD: Okay. Is there any
9 way this could be addressed through some of the,
10 I don't know, energy efficiency training or
11 licensing that it's used on Workforce, or even
12 the Contractors State Licensing Board?

13 BOARD MEMBER DIAS: Well, as a Board
14 Member of the CSLB, I'm not going to throw them
15 under the bus, but they might be able to do
16 something with the -- you know, through an e-
17 blast, as well, to inform the contractors.
18 That's about the only thing I could think of,
19 so --

20 MS. KUROKAWA: I think on this one issue,
21 I just want to bring one thing to clarification.
22 This is the one finding that effected both LEAs
23 and CCDs. So this is something that needs to be,
24 also, disseminated from the Chancellor's Office,
25 as well.

1 BOARD MEMBER DIAS: Okay.

2 CHAIR GORDON: Are you, at the CEC,
3 planning an e-blast around these findings
4 generally, sort of a reminder to people about
5 these issues?

6 MR. BUCANEG: We've done an e-blast
7 previous from the previous findings, and we can
8 do that at this point. I don't think it will too
9 difficult. And we have -- a lot of our
10 information is kept locally in our database, so
11 we work with our IT Department a lot, so they've
12 been backing us up and we can get those done.

13 CHAIR GORDON: That would be great.

14 And, Jack, can we just be in touch with
15 the Community College Board and recommend the
16 same thing?

17 MR. BASTIDA: Yes.

18 CHAIR GORDON: Great.

19 One higher-level question, Lisa, to you,
20 and it's -- for those who are new to the Board or
21 in the room who don't know this, we have a three-
22 audit contract with the Controller's Office and
23 this is the second of three. And what we've seen
24 already, of course, is we've gone -- I think the
25 first year there were only 17 completed projects

1 or something, and this year there's however many,
2 100-and-something, and next year there will be
3 far more than that.

4 MS. KUROKAWA: Correct.

5 CHAIR GORDON: How are you feeling about
6 the sample size? Are you concerned about the
7 sample size? Are you going to increase it?
8 What's your sense of what that will look like
9 next year?

10 MS. KUROKAWA: We have no problem
11 increasing the sample size if we get more
12 funding.

13 CHAIR GORDON: I knew you were going to
14 say that.

15 MS. KUROKAWA: Honestly, we have about
16 \$300,000 remaining in our contract. And we are
17 also, this next year, also doing a financial
18 audit, as well. So we've allocated \$100,000 for
19 that financial audit, so that leaves \$200,000 for
20 us to go out to 20 districts.

21 CHAIR GORDON: Okay.

22 MS. KUROKAWA: So we think, honestly,
23 that's the most we can actually do on that
24 budget.

25 And you are correct, what we have seen,

1 we've already gotten the sample size from the
2 Chancellor's Office. And the projects are far
3 greater, like the costs are larger, and the
4 population to pick from is far greater, as well.
5 But we're limited to the \$200,000 that we have.

6 CHAIR GORDON: Yeah. You and us both.

7 MS. KUROKAWA: Yeah.

8 CHAIR GORDON: We're all limited --

9 MS. KUROKAWA: So --

10 CHAIR GORDON: -- the \$300,000 --

11 MS. KUROKAWA: -- so --

12 CHAIR GORDON: -- unfortunately, so --

13 MS. KUROKAWA: -- we think, actually,
14 honestly, 20 districts is quite ambitious, and
15 that's the most we can do.

16 CHAIR GORDON: Thank you. That's very
17 helpful. We're having ongoing discussions about
18 this issue.

19 Just for new members, we have only
20 \$300,000 allocated to us for this function. And
21 we are anticipating this issue next year. And
22 then the addition of the School Bus Program in
23 the following year. So it is going to become
24 something we need to address and we're trying to
25 figure out how. I don't know if anybody has any

1 thoughts on that or any other higher-level
2 thoughts on the audit process?

3 And, Heather and Barbara, I want to give
4 you another chance to weigh in.

5 BOARD MEMBER LLOYD: I'm happy with the
6 conduct of the audit. And as far as future, I
7 agree, if there were additional funding --

8 MR. BASTIDA: That's Barbara.

9 BOARD MEMBER LLOYD: -- to cover
10 workloads, that would be great.

11 Sorry, I should have announced. That's
12 correct.

13 CHAIR GORDON: Barbara, I'm sorry, I got
14 confused in the questions about who was speaking.
15 Can you say that last point one more time?

16 Barbara, you're un-muted, I think. Your point
17 about Workforce?

18 Or someone else can repeat it, since I
19 didn't hear it.

20 Oh, Barbara, we lost you. If you are
21 back on, will you repeat that point? We actually
22 need you back for a quorum for a few.

23 BOARD MEMBER ROSENBERG: This is --

24 CHAIR GORDON: Heather, can you --

25 BOARD MEMBER ROSENBERG: Sorry. This is

1 Heather.

2 CHAIR GORDON: Yeah, Heather, go ahead.

3 BOARD MEMBER ROSENBERG: And I had agreed
4 with what she said, so -- which I understood to
5 be that she was comfortable with the contracts
6 and discussion, and no further questions right
7 now.

8 CHAIR GORDON: Great. That's easy.

9 Barbara, we do need you back, though, for
10 about -- do we have you back?

11 Jack?

12 BOARD MEMBER LLOYD: Yeah, I'm here.

13 CHAIR GORDON: Oh, great, Barbara, thank
14 you. Great.

15 Any other questions from the Board?

16 Great. Can we -- do we think we can have a
17 motion on this point? Again, we are voting on
18 approving the audit.

19 BOARD MEMBER DIAS: Motion to approve.

20 BOARD MEMBER LLOYD: I will second.

21 Barbara.

22 CHAIR GORDON: Barbara seconds. Great.

23 Can we have a roll call please, Jack?

24 MR. BASTIDA: Yeah. All right. Kate

25 Gordon?

1 CHAIR GORDON: Yes.

2 MR. BASTIDA: Adrienne Alvord?

3 BOARD MEMBER ALVORD: I'm going to
4 abstain, only because I didn't have a chance to
5 read it thoroughly. I hope it's not a reflection
6 on the audit.

7 MR. BASTIDA: David Dias?

8 BOARD MEMBER DIAS: Yes.

9 MR. BASTIDA: Barbara Lloyd?

10 BOARD MEMBER LLOYD: Yes.

11 MR. BASTIDA: Heather Rosenberg?

12 BOARD MEMBER ROSENBERG: Yes.

13 MR. BASTIDA: Okay.

14 CHAIR GORDON: We have four yeses and an
15 abstention, and I can't figure out if that works.
16 Does that work to pass? It's the majority of
17 those present; right? Okay. Good. All right.
18 Thank you. I guess I need to go back and read
19 Robert's Rules, obviously. Okay. Great.

20 Thank you everybody.

21 And thank you, Lisa. This has been, I
22 know, a heroic effort on your part. And we
23 appreciate everything you've done to move it
24 forward and to address last year's issues and
25 just be very cooperative and collaborative with

1 us, so thank you.

2 Oh, and I'm sorry, is Controller Yee
3 okay? We hear she was in a car accident?

4 MS. KUROKAWA: Yeah, she was in an
5 accident over the weekend and she's fine. I
6 believe she's probably back to work today or
7 tomorrow with additional doctor visits in the
8 future.

9 CHAIR GORDON: Great. Well, tell her, we
10 hope she recovers quickly.

11 Okay, that was the majority of our
12 agenda. I think we are going to public comment,
13 and so the floor is open. Please give your name
14 slowly at the beginning of your comment, if you
15 have a comment. And anything that was on the
16 agenda today, including on the phone, or not.

17 (Music playing on the telephone line.)

18 MR. BASTIDA: Hold on one second.

19 CHAIR GORDON: Oh, hold on one second
20 while we open up the phone line. If there's
21 someone on the -- oh, we were probably on hold
22 for that person; right?

23 MR. BASTIDA: I re-muted everybody for
24 now.

25 CHAIR GORDON: Okay. Sorry, those on the

1 phone, we had to mute you because somebody has us
2 on hold. We will open the phone line back up, I
3 promise, before the end of public comment.

4 In the room, is there anybody who has
5 anything that they want to say, including Staff,
6 if you have any burning desire to speak?

7 Look at that. All right, well, I guess
8 we'll open up the line again and see if there's
9 anyone on the phone.

10 (Music playing on the telephone line.)

11 CHAIR GORDON: I'm sorry. That is some
12 serious hold music. All right, well, I'm not
13 sure what to do about that. I'm not sure what
14 the rules are on that.

15 MR. BASTIDA: If you have a question, you
16 can send a text.

17 CHAIR GORDON: Why don't we mute that for
18 now? Mute them for now, and then we will tell
19 people how they can weigh in.

20 MR. BASTIDA: Oh, you found it?

21 CHAIR GORDON: Yeah. Go ahead.

22 MR. BASTIDA: You found it?

23 CHAIR GORDON: No. She just muted it.

24 MR. BASTIDA: Okay.

25 CHAIR GORDON: Jack, can you tell people

1 on the phone how they can weigh in?

2 MR. BASTIDA: Yeah. So if you want to
3 weigh in or have a question, please use the text
4 feature in WebEx and we will read it out loud, or
5 raise your hand and we'll ask --

6 CHAIR GORDON: And please do that right
7 now because, otherwise, we are going to end the
8 meeting.

9 MR. BASTIDA: Nobody is raising their
10 hand, so --

11 CHAIR GORDON: Okay. With that, just
12 thank you, everybody, for joining us for this
13 meeting and for continuing to be engaged in the
14 program. We really appreciate it.

15 And, Drew, thanks particularly to you for
16 hanging out here and listening in and
17 participating. And also, of course, Commissioner
18 and Chair Weisenmiller's staff, Michael.

19 And with that, the meeting is adjourned.
20 Thank you.

21 (The regular meeting of the
22 Clean Energy Jobs Act Citizens Oversight Board
23 adjourned at 2:21 p.m.)

24
25

