CALIFORNIA ENERGY COMMISSION
CITIZENS OVERSIGHT BOARD

In the Matter of:

California Clean Energy Jobs Act
Citizens Oversight Board

CALIFORNIA ENERGY COMMISSION
CLEAN ENERGY JOBS ACT
CITIZENS OVERSIGHT BOARD
REMOTE

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APPEARANCES

CITIZENS OVERSIGHT BOARD PRESENT:

Adrienne Alvord, Chair
Randall Martinez, Vice Chair
Barbara Lloyd
David Dias
Darrell Park
Heather Rosenberg

COB STAFF PRESENT:

Jim Bartridge
Jack Bastida

CEC STAFF PRESENT:

Deborah H. Godfrey
William Pfanner
Armand Angula
David Velazquez

PRESENTERS:

Jim Venneman, State Controller’s Office (SCO)
Lisa Kurokawa, SCO
Christine Kwong, SCO
Hoang Nguyen, California Community College Chancellor’s Office
Derrick Andrade, California Department of Education
Keith Smith, California Department of Education

PUBLIC COMMENTS:

None
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MR. BARTRIDGE: Okay. Well good afternoon, everyone and welcome to the third meeting of the Proposition 39 Citizen’s Oversight Board for 2020. I’m Jim Bartridge with Board staff. I’m joined by Jack Bastida and I want to turn it over to him real quick to provide some housekeeping comments about this Zoom meeting.

Go ahead, Jack.

MR. BASTIDA: Sure. So I’m getting pretty good at Zoom so far. I’ve been watching my daughter do her kindergarten class for the past -- bear with us, but I think we’ve got it down here.

You can use the chat function if you have a question to anybody, anyone of us, or the panelists, or the Board members. And also we have the question and answer function. If you have a question, just type it in there and we can answer it when we can get to it. So just let us know.

Go ahead, Jim.

MR. BARTRIDGE: Great, thanks.

Okay, folks. So, as you know, the Citizen’s Oversight Board, we typically meets three to four times per year. The first meeting occurs in February when we elect a chair and a vice chair to oversee our work throughout the year, and we also receive annual reports on the Proposition
39 activities from reporting agencies.

Our second meeting each year is held in March. We typically review the draft report, receive the Board’s input, and seek approval from the Board to finalize the report before submitting it to the legislature. We had to delay our March meeting until early April and held it electronically, consistent with Governor Newsom’s Executive Order N-25-20 to protect public health and safety to slow the spread of the COVID-19 virus. After that meeting, we finalized and submitted the Board’s Fifth Annual COB Report and Recommendations to the legislature.

Today’s meeting is also being held electronically and focuses on the annual program audit the Board receives from the State Controller’s Office. Jim Venneman with the State Controller’s Office will present an overview of the 2018-2019 audit findings and results.

And with that, let me turn it over to Chair Alvord for any opening comments.

CHAIR ALVORD: Okay. Thanks Jim, very much.

Greetings, everyone. Welcome to our second virtual COB meeting. My name’s Adrienne Alvord and I’m the Western States Director of the Union of Concerned Scientists. And I was appointed to the Citizen’s Oversight Board in June 2018 by State Controller Betty Yee, and elected Chair last year.

As you all know, the California voters approved Prop
39, the California Clean Energy Jobs Act in 2012 to create jobs, save energy, and reduce costs and greenhouse gas emissions by investing in California’s schools and community colleges. These Investments are also intended to provide job training and workforce development in order to promote the creation of new private sector jobs to improve the energy efficiency of commercial and residential buildings throughout California to help meet -- to help us meet our climate and greenhouse gas emission reduction goals.

Program funding came from a change to the corporate income tax code, and revenues were allocated to the Clean Energy Jobs Creation Fund for five years, from July 1st, 2013 through June 30th, 2018. The Citizens Oversight Board was created as a nine-member independent body to audit, review expenditures, and maintain transparency and accountability of the Clean Energy Jobs Creation Fund. Board members are appointed by the Attorney General, the State Controller, and the State Treasurer. Currently, the Board has six members and I’d like to thank all of you very much for your -- for your continued service on the Board.

And in particular today, I’d like to thank Board Member Dave Dias. He was appointed to the Board in 2016 and recently retired, so this will be his last meeting. And folks may not be aware, but Dave’s last term actually expired in February of this year, but with coaxing, he agreed to
continue serving on the Board so we could get through this
year’s annual report and program audit.

So Dave, thank you very much. Your tireless efforts
and your work with this Board are very much appreciated and
you will be very much missed. And we wish you all the best
in retirement.

MR. DIAS: Thank you so much.

CHAIR ALVORD: So with that, I’d like to go ahead and
ask if there are folks that are joining us from any of the
agencies via Zoom. And if so, please announce yourselves.

MR. VENNEMAN: Jim Venneman, State Controller’s
Office.

CHAIR ALVORD: Hi, Jim. Anyone else?

MS. JUAREZ: Liliana Juarez, auditor, State
Controller’s Office.

CHAIR ALVORD: Thank you.

MR. ANDRADE: Derrick Andrade, California Department
of Education.

CHAIR ALVORD: Thank you, Derrick.

MS. KUROKAWA: I’m Lisa Kurokawa, I’m with the State
Controller’s Office.

CHAIR ALVORD: Hi, Lisa.

MR. PFANNER: William Pfanner, California Energy
Commission.

CHAIR ALVORD: Great. Hi, Bill.
MS. GODFREY: Deborah Godfrey, California Energy Commission.

MR. ANGULO: Armand Angulo, California Energy Commission.

MS. KWONG: Christine Kwong, State Controller’s Office.

MR. NGUYEN: Hoang Nguyen, Chancellor’s Office for Community Colleges.

MR. SMITH: Keith Smith, California Department of Education.

MR. VELASQUEZ: David Velasquez, California Energy commission.

CHAIR ALVORD: Okay. Let me ask, before we begin, if any Board members would like to offer any comments. Okay. Seeing none, let’s go back to Jim.

MR. BARTRIDGE: Great, thank you. Let’s -- let’s go to roll call to make sure that we’re all set. I think we are, but: Chair Alvord.

CHAIR ALVORD: Here.

MR. BARTRIDGE: Randall Martinez. You’re on mute Randall, but we see you there.

MR. MARTINEZ: I’m here. Thank you.

MR. BARTRIDGE: Okay. David Dias.

MR. DIAS: I’m here.

MR. BARTRIDGE: Great. Barbara Lloyd.
MS. LLOYD: I’m here.

MR. BARTRIDGE: Thank you for joining us from vacation, Barbara.

MS. LLOYD: Sure.

MR. BARTRIDGE: Heather Rosenberg.

MS. ROSENBERG: Here.

MR. BARTRIDGE: And Darrell Park.

MR. PARK: Here.

MR. BARTRIDGE: Great. And with that, Chair Alvord, we have a quorum.

CHAIR ALVORD: Excellent. Okay, thank you.

The next item on the agenda is the approval of minutes from the April 3rd, 2020 meeting.

Is there a motion to approve the minutes?

MR. MARTINEZ: So moved.

CHAIR ALVORD: Thanks, Randall.

MR. DIAS: Second. Dave Dias.

CHAIR ALVORD: Thanks, Dave.

Any discussion or edits? Okay, seeing none. All in favor?

MS. LLOYD: Aye.

MS. ROSENBERG: Aye.

MR. MARTINEZ: Aye.

MR. DIAS: Aye.

MR. PARK: Aye.
CHAIR ALVORD: Any opposed?

Okay. The -- the minutes are approved.

And with that, we can go to Item 3 on the agenda, the
Presentation, Discussion, and Possible Vote on the Annual
Program Audit of the Clean Energy Job Creation Fund
Expenditures.

And I believe that’s Mr. Venneman.

MR. VENNEMAN: Okay, Chair Alvord and Citizens
Oversight Board Members, good afternoon. My name is Jim
Venneman. I’m the audit manager, CPA with the State
Controller’s Office. And I was a manager for the recently
completed Proposition 39 Program Audit. I point out that
this was the fourth Audit Report that we have issued so far
under the Proposition 39 program. We’re just now getting
underway for this year’s audit.

Joining me today is my Bureau Chief, Lisa Kurokawa.
Lisa managed the first two program audits of the Prop 39
expenditures and the work with the Board and the Energy
Commission to determine the scope of work to be included in
our interagency agreements.

Also joining me today is Christine Kwong. Christine
was the auditor in charge for the most recent audit and she
was assisted by auditor Liliana Juarez.

So what I’m presenting today is a PowerPoint
presentation outlining the relevant aspects of the Program
Audit that we just completed. So I’m going to try to share my screen and open up this PowerPoint presentation, see how this all works.

Oops, I’m on. Okay. All right. Are we coming -- all right, is everybody seeing this here now?

CHAIR ALVORD: Yeah.

UNKNOWN SPEAKER: Yeah.

UNKNOWN SPEAKER: Yes.

MR. VENNEMAN: Okay. All right. Good. Wonderful.

This is all working. Okay. Okay.

So here’s the name of our -- of myself, and Lisa Kurokawa, my Bureau Chief, and our contact information. You can always contact us with any questions you might have.

So the agenda for this presentation, I’ll go briefly over all these items. The audit authority and our objectives, the audit scope. The audit methodology we used for both local education agencies and the community college districts, our audit results, which we call findings. And we have another audit result which we call an observation. I’ll explain what the difference is. And then at the end, if you have any questions, we’ll go over those.

So the first item up is audit authority, the objectives, the scope, and the methodology that we used. So for this audit, the -- our office and the Citizens Oversight Board entered into a one-year contract, or interagency
agreement on July 17\textsuperscript{th} of 2019. That agreement said that we were going to develop an audit plan to include a selection of completed projects during the 2018 -- the fiscal year 2018-19 completed projects. 80 percent of those were local education agencies, and 20 percent community college districts. We determined compliance with the Prop 39 program guidelines.

So basically what that means is we were going to determine that the -- the projects that we selected for audit adhere to Energy Commission’s Program Implementation Guidelines, or the LEAs, and the Proposition 39 Implementation Guidelines issued by the Chancellor’s Office. And number two, that each Energy Expenditure Plan was approved in accordance with Energy Commission’s Expenditure Plan Handbook for LEAs and the Chancellor’s Prop 39 Implementation Guidelines.

So as of June 30\textsuperscript{th}, 2019, based on the information provided to us, California schools reported the following completed project costs under Prop 39. We had 234 LEAs with project costs totaling a little over almost $172 million. In community college districts, we had 59 districts with project costs totaling just shy of $67 million.

So from that listing of completed projects we received, we judgmentally selected for audit 17 LEAs with reported total expenditures of almost $38 million. About 22 percent of the total for community college districts with
reported total expenditures of $7.4 million, about 11 percent of the total.

I would point out here that our selections of LEAs and college districts included both urban and rural districts throughout various areas of the state. What we mean by that is we didn’t just pick districts with the highest dollar amount in order to get the most dollar coverage, the idea was to select what CDE calls Tier 1, 2, 3, and 4 schools that -- and those are based on size, so we tried to do a representative sample of large and small districts throughout the state and not just base it all on dollar figures.

MR. MARTINEZ: Is that what is meant by judgmentally selected?

MR. VENNEMAN: What was that?

MR. MARTINEZ: Is that -- is that the description behind the term we judgmentally selected for the audit?

MR. VENNEMAN: Well what judgmentally selected means, that’s an audit term. That means that we, based on our judgment, we just selected, as opposed to a statistical sample. We just judgmentally, we got the list of completed projects, we got the list of all the schools, and the college districts, and we just went through there. The information that was provided to us was the name of the district and the amount of expenditures they had for completed projects, what size school they were, how much planning money was spent. So
we just went through there and tried to, on our best
judgment, select representative sample of LEAs and college
districts.

MS. LLOYD: Jim, this is Barbara Lloyd with one other
question.

As I recall, you were also looking to not repeat
and --

MR. VENNEMAN: Yep.

MS. LLOYD: -- audit districts or schools that had
already gone through that process in the prior round. Right?

MR. VENNEMAN: That’s correct. Yeah. We have not at
any point audited a school district twice. This would be any
of these audits.

MS. LLOYD: Okay. Thank you.

MR. VENNEMAN: In fact, the ones we selected for this
year we had not -- are not -- haven’t been audited in the
past either.

So our audit methodology for local education agencies
was to determine first of all that since they received
planning funds up front, we determined that they were
expended properly, and any unused planning plans were applied
to project implementation costs.

If the LEA submitted an Energy Expenditure Plan,
which I’ll call an EEP from this point forward, that the
Energy Commission, consistent with their project priorities,
that the Energy Commission approved those EEPs in compliance with the guidelines. The EEPs had all the required components. The required final report that they submitted had everything in there. The LEAs used a competitive bid process and did not sole source contracts to award project funds, that they had signed contracts, that they had everything in them. Project specification costs, energy savings, and that the districts had adequate documentation to support all of this.

Very much the same for college districts, except there’s different guidelines. College districts submitted a Prop 39 funding application through the Chancellor’s Office. They submitted a Call for Projects form identifying their projects, that they submitted closeout Project Completion forms and the Annual Project Expenditure Report. The college districts also use a competitive bid process and didn’t sole source their contracts, that they had signed contracts identifying all the specifications, costs, and energy savings, and once again, that all of this was adequately documented and supported.

So that’s the basis for the audit -- here’s the audit results. But we had monetary -- we have the findings. When we have finding in an audit, we have either monetary findings or nonmonetary findings. The difference is that for monetary findings, districts are usually required unless they appeal
these, to pay the funds back. A nonmonetary finding is a --
is a violation of the guidelines. But I don’t -- as I far as
I know, there’s no consequences for that other than, you
know, don’t do it again.

So the -- for the monetary findings we had six local
education agencies that sole sourced their contracts for a
total of about $9½ million. It’s the largest amount so far.
We have one district with an eligible project cost totaling
about $3,000 for conferences, seminars, and a one-year
membership in a School Energy Coalition.

Our nonmonetary findings, we had 12 LEAs and all four
community college districts not identify the energy savings
in their signed contracts. We had four LEAs with projects
expenditures that were not supported with signed contracts.
All of these expenditures of these contracts were included in
the monetary finding from Sole Source Project Costs. And we
had nine LEAs that submitted their final completion reports
to the Energy Commission more than 15 months after completing
their EEPs, which is the deadline per statute.

Now we had an observation. I’ll go through the
observation, explain why it’s different than a finding. So
we had two LEAs that received Prop 39 funds that exceeded the
amounts of the -- in their approved EEPs. They were only
about $237,000. We brought this issue to the attention of
the Department of Education. And the Department of Education
agreed with us that yeah, the two districts received excess payments likely due to changes made in their Planning Fund Budgets and the lack of Final Completion Reports, when they apportioned the funds.

So the reason this is an observation and not a finding is reconciling amounts paid by the Department of Education and amounts approved by the Energy Commission is not one of the audit objectives that we have. So we typically wouldn’t be looking at this in our testing. But however, we did notice this because we were looking at the amount that was approved by the Energy Commission and comparing it to what they actually received.

So -- so then if it -- if we cover something that we feel that’s important enough to bring to the attention of management, either the Energy Commission or the Department of Education in this case both, we need to say something about it so we report that as an observation not a finding. And that’s required that we do that in our audit standards. So that’s why we label it something different. I hope that clarifies that.

MS. LLOYD: Yeah, Jim, I had one clarification question on the way that this observation is worded. I think in your report CDE took a different approach to the observation, if I understood it correctly, indicating there was surplus planning funds that should be reimbursed as
opposed to an excess payment of program funds. 

Is -- can you comment on that nuance or can the CDE rep weigh-in on this issue because it’s a little confusing.

MR. VENNEMAN: Well, my understanding was these were excess payments because we compared the amount in the approved Energy Expenditure Plan, occurred after the amount that actually received. These were overpayments. And it’s my understanding the CDE agreed with us, we paid them more than they were approved for. We’re going to bill them for the difference.

MS. LLOYD: Okay. Do we have a CDE rep because I thought that there was a slight observation that it should be characterized differently, but maybe I’m thinking of a different -- a different item.

MR. ANDRANDE: Good -- good afternoon, everybody. This is Derrick Andrade with California Department of Education. And thanks again for having and including us on this meeting and for sharing the observation.

We agree with the SCO in the sense that there are unused funds at the LEA and the unused funds since the -- everything has been completed should be returned to the state. However, we don’t see it as an overpayment and we make the distinction that for -- for planning funds, the LEA requests the funds within the first year of eligibility and so there’s no issue with the payment of the planning funds
later when one or more project gets approved by the Energy
Commission. We release payment for the amounts of those
projects. So in some cases the districts, you know, they
receive their planning funds and they receive their e-project
funds. In this case if they were intending to then later
roll project, or planning funds into the project, which is
their right to do, or they could, and which they did in this
case, then they would have surplus funds. But it would not,
we don’t see that as an overpayment.

Hopefully that clarifies the payment process, but we
do agree that any unused funds at the district should be
returned to the state.

MS. LLOYD: So to clarify, if they used some of their
surplus planning monies for appropriate costs but which when
added to their EEP numbers exceeded the amount of the EEP,
you feel that’s a legitimate use. But if there’s any unused
project planning funds, they should be returning those unused
funds?

MR. ANDRADE: Well the --

MS. LLOYD: Did I interpret that correctly?

MR. ANDRADE: Well I think -- yes, partly. But we
would not say that they could use planning funds to exceed
the amount of the approved EEP. So the planning funds, they
can be used for planning activities that are described in the
guidelines, things such as energy consultant, energy audits,
and those things. And they can also be used to implement the project. So there’s no -- I don’t think they found an issue there with, you know, the ineligible expenditures in that regard.

However if, you know, if the -- if the expenditure plan gets approved, we release the funds for that. In a lot of cases they -- inside that project, the district would say oh yeah, we’re going to use, you know, some amount of our planning funds also to -- to implement the EEP. But the EEP still is approved for that higher amount and we pay the amount that’s higher because the district, they have the option to roll their planning funds into their project or they can keep them in the planning category and make expenditures as planning funds.

And that’s what -- I think that’s the difference where we don’t see it as an overpayment for that regard. And so, but we do agree that unused funds at the districts should be returned to the state.

MS. LLOYD: Derrick, can I seek a further clarification, or Madam Chair --

MR. ANDRADE: Sure.

MS. LLOYD: -- may I ask Derrick for further clarification?

So I’m a little confused. Is it the case that in -- some districts have included in their EEP the anticipation of
rolling over some amount of project funds and therefore included those amounts in their EEP to sort of create room for that additional monies and some did not. And that’s why some of them ended up looking like they had spent excess money and others did not?

MR. ANDRADE: I don’t know that I can speak exactly to that since we don’t review the EEP approvals. And so from our experience, the -- the planning funds could be, could be rolled in and they could also be rolled back out. So -- so that’s why we, you know, and the agreement we had over the years and I wasn’t here at the beginning, kind of towards the end of these last apportionments is that if a district included rolling planning funds to their project, that we would still keep the actual amount of the EEP.

And so on our -- the schedule that we’ve used to make payments on is the amount that is in the approved EEP, the total amount of the approved project. And that’s what we used as a basis to release the apportionment.

MS. LLOYD: And because you guys -- well, let’s just say this, I’m as confused as I started, as I was at the start of my question, as to whether or not these districts have a need to return funds or not. Because it seems to me on one hand we are saying that they had the right to spend extra planning money on appropriate uses, but if that expenditure resulted in more being spent than the EEP had indicated, that
that is not allowable. And in which case, even though
they’ve spent the money, quote legitimately, because it came
out to more than they had put in the EEP, they have to give
it back.

I -- I don’t understand how both statements can be
true. That they’re allowed to roll it over, but then once
they do, they’ve now spent too much. It just doesn’t make
sense to me.

MR. VENNEMENT: I can -- I can speak to that.

So this is a case -- so I’m going to give you two
scenarios. We have some districts that had -- well, first of
all the planning funds were spent were allocated to this --
separately from money for project costs. The CDE rolled out
planning funds to districts so they could get the process
started and they can hire engineers and so forth, they can do
some planning work to figure out what their energy projects
were. And once they did that, then they -- that’s when they
submitted their EEPs for approval to get their projects
flowing.

So what’s happened is, is some -- not all districts
spend all their planning funds. And if they didn’t do that,
they would roll them over to implementation costs and some
districts used all their, what we call unused planning funds
for project implementation and they used all those costs, all
those funds, for project implementation.
In some cases, districts didn’t use all their planning funds and they -- they didn’t roll them over to project implementation because they didn’t need to because the amount of the approved in the EEP covered all their costs. So when everything was done and all their projects were completed, they had these unused planning funds that they had received in excess of the amount it was approved --

(Telephone ringing obliterated speaker.)

UNKNOWN SPEAKER: Sorry about that. Turn it off.

UNKNOWN SPEAKER: Are you hearing that Deborah?

MR. VENNEMAN: Okay. So on this case and the cases of these districts and two LEAs here, they -- they didn’t roll over their unused planning costs of project implementation so at the end of the day, they received more money than they were approved for. It’s not that they used it and --

MS. LLOYD: All right. I did not understand that they had not used them. I thought that you were pointing out situations where the rollover to project costs meant that they had actually spent more than they had been allowed. So I am done. Thank you.

MS. KUROKAWA: My name is Lisa Kurokawa, I’m with the State Controller’s Office.

I just want to clarify to Barbara that our finding is titled Unused Planning Funds, so we are in agreement with CDE
that it is unused planning funds, not like overspent funds.
So there is no discrepancy, I think, between us and CDE. I think we’re all in alignment. And these two districts have the money in a pot and are ready to remit it back to the state whenever --

MS. LLOYD: Perfect.
MS. KUROKAWA: -- CDE bills them.
MS. LLOYD: There was some other aspect of the way that was described that it made me believe that those unused planning funds had actually been spent.

MS. KUROKAWA: No. No.
MS. LLOYD: Thank you.
MR. VENNEMAN: Yeah, we’ve gone round and round with this on how to -- how to word this thing so it makes sense. We always end up talking about this every year.
MS. LLOYD: Yeah. No, I’m good. That was the fundamental misunderstanding that I came away with.
CHAIR ALVORD: Well you -- your misunderstanding was shared, Barbara, so I really appreciate all of the explanation because I was confused about the same point.
Thank you.
MR. VENNEMAN: Yeah, we had lengthy discussions with CDE when this first came up, you know, how do we describe this because, you know, we know how to write audit findings but this is not -- this is not that. So we went back and
forth with them. As Lisa just said, about our audit report actually calls it unused -- unused planning funds, so that’s because that’s what it is.

MS. KUROKAWA: Yes.

MR. VENNEMAN: And I think that’s it for me.

Does anybody have any other questions?

CHAIR ALVORD: Questions or comments?

MR. PARK: This is Darrell Park.

One of the concerns I’ve had is that charter schools that take funds from the program and have rented space and then go out of business or somehow no longer have control of the space with the -- you know, that they use the funds to make improvements on.

Did you, in your audit, come across any charter schools that have gone out of business that somehow those funds were used on a space or a facility that’s no longer in use?

MR. VENNEMAN: Well, okay, so if we -- first of all, let me clarify. If we -- if we were to run into that issue, so the issue then is if a charter school used Prop 39 money and they completed their project and then they went out of business or they sold their facilities, so the question is did they, for us as auditors is, did they receive the energy pay back that they were supposed to receive before they disposed of their facilities?
Now that hasn’t -- that hasn’t come up but it’s interesting that you mention that because in the districts that we selected for this coming year, we have two charter schools that did just that, so we’re going to be looking into that for this upcoming audit.

MR. PARK: Okay. Thank you.

CHAIR ALVORD: Good question.

MR. VENNEMAN: And in fact, we selected them because of that. So we want -- because we were curious of okay, we -- because one of them closed several years ago and so we’re curious as auditors is what, you know, that.

CHAIR ALVORD: Okay. Other questions or comments?

MS. LLOYD: Chair Alvord, may I? If we don’t have other Board members.

CHAIR ALVORD: Please.

MS. LLOYD: Thanks. I don’t like to monopolize.

CHAIR ALVORD: This is your area, Barbara. Go for it.

MS. LLOYD: Yeah, right. This is the one I’ve been designated to ask the hard questions on, which I’m happy to do.

So, obviously we’ve seen multiple occasions of the sole source finding, as well as the lack of signed contracts finding, and in this situation those two overlapped 100 percent. Two questions sort of arise. One is more of an
observation or recommendation.

The first question is, did CDE ever sort of follow-up on the conversations and recommendations we had in previous years to reach out and let districts know that these findings were fairly common and that they could do some things proactively to address any gaps that they might have in their own documentation? Especially around something as simple as you make sure you had a signed contract, which you know, there’s absolutely no reason I can fathom why they wouldn’t, so that’s disturbing in and of itself. But even the other finding regarding making the energy savings goals a part of the contract package, which is something that would be fairly easy to cure with an amendment if you hadn’t done it. Was any of that outreach or communication done?

CHAIR ALVORD: I guess that’s for CDE.

MR. BARTRIDGE: So Barbara, I think your question -- yeah, so let’s -- let’s go three ways here. CDE, if Derrick, you can respond to that. I know Bill Pfanner’s on the phone as well that he can probably respond to what’s happened on the CEC side. And then I think Hoang Nguyen is on as well from Community Colleges to be able to respond. So if we could go in that order, that would be great.

MS. LLOYD: That’d be great.

MR. BARTRIDGE: Derrick.
MS. LLOYD: Derrick, you might be on mute if you’re trying to speak.

CHAIR ALVORD: I’m not seeing him on our list right now.

MS. LLOYD: Oh, he may have fallen off.

MR. BARTRIDGE: Okay. Bill Pfanner, are you on? Can you respond?

MR. PFANNER: Yes.

MR. BARTRIDGE: Okay. Thank you.

MR. PFANNER: Yes, I’ll jump in. So the Energy Commission did extensive outreach throughout the process on the sole source issue, and that is something that we did eblasts, you know, we posted on the website and that was the past.

As of June 30th, 2019, all encumbrance was to be completed. So that means contracts signed, obligations secured, so anything that’s happened, you know, anything that’s happened would have happened before that date. Now I’m looking at the issue that was discussed about the -- the concern that the schools went in and they did the -- I’m looking for the notes here, without having a, in their budget, a cost projected energy savings. That is --

MS. LLOYD: In the contract.

MR. PFANNER: Right. In the contract. That that is something that the Energy Commission would not see. That is
between the LEA and their contractor, so we don’t see it.

It’s clearly in the guidelines for Prop 39 but, you know, it -- the past is the past of what has happened already, so those contracts are done.

We, you know, with the Energy Commission, are very cognizant of and cautious when there’s an audit not to look like we’re coming in to fix something, you know, that is done. That being said, you know, if there are mistakes that are made that could be corrected, I would think we would be able to work with our legal staff here as to what kind of communications could go forward to say, for example, if you have done your contract and you did not deal with your energy savings, maybe that’s something you should look at. But again, we don’t want to look like we’re going ahead of the audit and trying to fix something.

MS. LLOYD: Sure. I think the understanding I had was when we talked about this, and it may have been when we went through this two years ago rather than last year.

MR. PFANNER: Yeah. Right.

MS. LLOYD: We suggested a little bit of a proactive attitude on the part of the control agencies to let folks know that these were findings that we imagined could be cured with just a little bit of attention. But it -- at least if that outreach did occur, these particular districts did not get it or didn’t follow it. I just was curious if there had
been anything in — anything specifically that either CDE or the Community Colleges, or Energy Commission could point to other than somebody, you know, watching the outcome of these meetings would’ve been able to, you know, gain some lessons learned from that.

MR. PFAFFNER: Right. Right. So to answer your question for the Energy Commission is we did the outreach for the sole sourcing and that was the only issue that we did outreach to educate the Prop 39 applicants of, hey this is something that we’re seeing a problem on.

MS. LLOYD: Okay. Well, it’s good to know at least that was done. Thank you.

MR. PFAFFNER: Yeah.

MR. BARTREDD: And Hoang, are you -- are you with us as well?

MR. HOANG: Yes. I’m here.

MR. BARTREDD: Did you want to respond to that on the point of the contracts and the energy savings with the community college contracts as well? Do you have --

MR. NGUYEN: Definitely.

MR. BARTREDD: Thank you.

MR. NGUYEN: Good afternoon, Board, my name’s Hoang from the Chancellor’s Office.

In regards to the question about the energy savings on the actual contracts between the districts and the
vendors, or vendors themselves. We’ve been in communication
every time this has happened for the past four or five years
that, in talking with the chief business officers or vice
presidents, the contractors would not sign off on any
contract where it stipulates a certain agreed upon energy
savings. So that has all been a point of contention.

But as part of our process of Proposition 39 and
getting these projects started and finished, we have a Form B
which the districts work on, the IOUs work on, and our
consultants work on as well to engineer a project to have the
SIR ratings above 1.05 from the get-go. And at which point,
one -- once all these players vet the -- vet this project,
it comes through the Chancellor’s Office for approval.

After approval, then they go out for that said vendor
or contractor, whoever wins the bid, to follow that process
of that Form B to get those SIR ratings. Once the project is
completed, once again, the IOUs go back in, our contractor
goes back in to verify and do the engineering to verify the
SIR ratings once again on the tail end. Then -- then that
gets re-signed by the vice president or the chief business
officer of that district.

MS. LLOYD: Sure.

MR. NYUGEN: So it’s a start to finish kind of deal
to verify the SIR ratings before the -- before the vendor
even comes on to do the work.
MS. LLOYD: Okay.

MR. NYUGEN: We feel that that’s a viable workaround.

MS. LLOYD: Right. Well, and I think that what we’re learning is that, you know, a legislative idea to make sure that the energy savings was a known quantity and was part of the expectations throughout the process was a legitimate, you know, a legitimate objective, but the exact means to achieve that by stating that it had to be in a contract with a -- with a specific provider when that provider wasn’t itself guaranteeing those savings, they were simply implementing selected solutions created a disconnect.

And I think from the standpoint of lessons learned, my thoughts are, to the extent we do have existing or future legislation that would seek to either extend this program or do something similar, we ought to have somebody have some conversations with the legislative staff members who are, you know, crafting the language to try and avoid impossible -- language that’s impossible to comply with.

And I guess one other idea that I have that I’m certainly open to hearing from people is on the sole source issue. It -- at the surface it appears that those most likely to engage in sole sourcing are the smaller districts for whom there may not -- the amounts of the contracts may be fairly low, you know, under 50,000 here or there or their access to prequalified vendors may be very -- very limited.
and therefore it could be prohibitively expensive to do a full blown, you know, RFQ, RFP process.

Under those circumstances, it might be helpful if there is some amount of money set aside in any future program for one of the statewide agencies to be able to, you know, essentially run a prequalification process that would provide a safe harbor for districts who elected to get, you know, at least three bids from prequalified consultants from the state list or statewide list. It doesn’t have to be, you know, specifically a particular division of state government that does it, it could be, you know, CDE or it could be Community Colleges, or it could be some other entity.

It just seems like there ought to be more thought given to how these districts can comply when under normal circumstances, they don’t have the resources. That said, not having signed contracts with your vendors to me reveals a big, big problem with contracting in these districts. And State Controller’s Office, that deserves its own -- its own review. Separate and apart from this.

So any thoughts are welcome. I think I’m done.

CHAIR ALVORD: Well, my only heavy addendum to that is that I don’t think I could get reimbursed on an invoice for -- without a contract, a signed contract with a contractor in my own organization and I’m astonished that that is able to happen.
So any -- any constructive ideas that people have, like Barbara’s, I would welcome as well.

Any other comments or questions?

MR. VENNEMAN: Well, I would point out on the -- on the no-sign contracts that they did have -- all districts that we looked at had signed contracts for their construction costs. The no-sign contracts issue was where districts had a -- they had a legal firm do some work on one of their projects or they bought some kind of, like say electrical components or some kind of something from a vendor and -- almost like they went to a retail store, almost, and purchased some items, and they used Prop 39 funds but, you know, they didn’t have a -- they didn’t have a signed contract. So --

CHAIR ALVORD: So these were not -- these were not necessarily contracted costs, they were like just expenditures, like invoiced expenditures.

MR. VENNEMAN: Exactly. Yeah. Yeah. These --

MS. LLOYD: So maybe there’s some room in the legislations to talk about approved purchase orders, then.

CHAIR ALVORD: Yeah.

MS. LLOYD: Because certainly a purchase order is a legitimate means of documenting the payment for services. And maybe the word contracts is being viewed too restrictively.
CHAIR ALVORD: That’s a good clarification.

MR. VENNEMAN: Yeah. Fortunately for us as auditors, we -- we just had to report what we saw and that’s up to you guys, I guess, to figure out how to -- how to sort all this out. So.

MR. BARTRIDGE: The clarification’s very helpful.

Thank you.

CHAIR ALVORD: Any further questions or comments?

Randall? Dave? Heather?

MS. ROSENBERG: None from me, thanks.

CHAIR ALVORD: Okay.

MR. BARTRIDGE: Okay. So on that point, just let me -- let me follow-up. So -- excuse me. The -- we’ll discuss this year’s audit within the context of the report we begin in February. And so we’ll work with Barbara on that language. As you guys know, we have a section where we discuss the audits and the findings and try to capture the findings as best we can not in the audit language detail but more for the layperson’s understanding.

So Barbara, I’ll work closely with you to try and capture some of these recommendations and what we can within the report that we begin in February.

MS. LLOYD: Thanks, Jim. Barbara Lloyd again.

The Chair had mentioned in a little bit of correspondence that there may be an active bill, active being
sort of maybe a euphemism, but looking at expanding this type of program. And if there’s a chance that that bill would go forward in this session, I think it would behoove us to contact Assembly Member Ting’s office and -- and make sure that they’re not replicating some problems of the past. But if it’s unlikely to go forward, then I think we could just, you know, focus on next year’s report.

CHAIR ALVORD: That’s a great idea. And we’re, full disclosure, we’re working on a different aspect of that bill having to do with transportation electrification. And there may be others that we haven’t identified but I think that’s a really good idea.

MS. LLOYD: Okay. Well I’m happy to engage in that conversation if it’s -- if it’s actually a live conversation as opposed to -- I mean, I’ve worked on a bunch of bills this year that have essentially been pushed to the side so I’m not wishing to do more of that.

CHAIR ALVORD: Yeah. Yeah.

MS. LLOYD: Thank you.

CHAIR ALVORD: Okay. Last call for questions or comments.

And if not, I think we can go ahead and entertain a motion to accept the audit. Is that correct, Jim?

MS. LLOYD: Yeah, and I’m happy to move to accept the audit.
CHAIR ALVORD: Thank you, Barbara.

MR. PARK: I’ll second. This is Darrell.

CHAIR ALVORD: Thanks, Darrell.

Okay. All in favor, signify by saying aye.

MS. LLOYD: Aye.

MS. ROSENBERG: Aye.

MR. MARTINEZ: Aye.

MR. DIAS: Aye.

MR. PARK: Aye.

CHAIR ALVORD: All opposed? Any opposed?

Okay, the motion carries. Thank you very much, everyone.

And with that, I think we’re done with Item 3 and can move on to any public comment.

MR. BARTRIDGE: And, Chair Alvord, just before public comment. I wanted to -- in our March, April meeting we had an update on ECAA-Ed and I just wanted -- Deborah Godfrey’s on the line and she can give us a quick update on what’s been going on since that meeting.

Deborah.

CHAIR ALVORD: Oh, thank yo

MS. GODFREY: Okay, good afternoon. I know we had an update in one of our previous meetings, but just want to let you know what’s going on currently.

The second ECAA-Ed Competitive Solicitation was
released in February, on February 25th of this year with a final application date in the end of June. But then due to COVID, it was extended until tomorrow, August 27\textsuperscript{th}. And we’re, you know, anxiously waiting to see how many come in but at this point we don’t have any idea what has happened. They don’t tell us.

This PON, which was Number 19-101 was for 38.5 million in four size categories in four regions, similar to the last one. But the only change that we made in these two areas was we expanded the LEA size from three reach, from three size categories to four because we broke down one of the smaller categories because there were quite a -- were quite a few applications previously in that region and it made some sense.

And as you may recall, the first PON was for 36 million, had 21 applicants, but only seven met the administrative and technical criteria and were funded. Those seven totaled 6.7 million, which was far less than the 36 million that was available. Probably a good portion of that, those problems, were because after years of familiarity with the first come, first serve process of ECAA, there was some uncertainty and apprehension with the competitive process. It scared a lot of people. Just the word competitive scared a lot. And it was also a learning curve for all of us, so the consultants, the applicants, and CEC staff.
And based on what we learned from that first solicitation in discussions with LEAs and the consultants after the last solicitation closed, we enhanced the directions and beamed up the admonishments to make the requirements clearer, do a little more handholding and ease some fears associated with a competitive process. And hopefully we’re expecting that there will be an increase in the number and especially in the quality of the submissions that will be received by 5:00 tomorrow.

And I will be more than happy or some other person on the staff will be more than happy to give you an update after this second ECAA-Ed PON has closed. We’ll provide the number of the submissions, the requested funding, specific project information, and a list of the LEAs funded. So just let us know when -- we’ll let you know when that has closed. We will be posting the successful applicants in November, and so we can give you an update anytime after that.

CHAIR ALVORD: Thank you, Deborah.

And Jim, I’m sure you’ll -- you’ll be in touch with any information that would be relevant and maybe it will be on the agenda, I would assume, for our winter meeting.

MR. BARTRIDGE: Well, we’ll have that conversation whether we’re going to have a December meeting or not. I think last year we opted not to but let’s see where we’re at and you and I can have some conversation. If not, we can
certainly bring it up into the February meeting. So look forward to having that conversation.

Deborah, thank you for the update on ECAA-Ed.

MS. GODFREY: You’re welcome.

CHAIR ALVOD: Okay. So ready for public comment, if there is any.

This is where I’m going to need some help, Jim, because I can’t really see very much beyond a few faces here at a time.

MR. BARTRIDGE: Do we have any public comment on the line?

Jack, anybody raising their hands or anything in chat?

MR. BASTIDA: No, I don’t see anything there.

MR. BARTRIDGE: Nope.

CHAIR ALVORD: Okay. Going once, going twice. And I guess with that, unless there’s objection, I believe we can adjourn until our next meeting.

Is that correct, Jim?

MR. BARTRIDGE: That’s correct.

CHAIR ALVORD: Okay.

MS. LLOYD: Okay. Thanks everybody. Have a good --

CHAIR ALVORD: Without objection.

MS. LLOYD: Be safe. Be sane.

CHAIR ALVORD: Thank you, everyone.
MR. BARTRIDGE: Thank you, all.

CHAIR ALVORD: Thank you, Dave. Take care.

(Thereupon, the Hearing was adjourned at 2:26 p.m.)

--oOo--
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I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

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