



## 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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## P R O C E E D I N G S

1  
2 AUGUST 26, 2020

1:35 P.M.

3 MR. BARTRIDGE: Okay. Well good afternoon, everyone  
4 and welcome to the third meeting of the Proposition 39  
5 Citizen's Oversight Board for 2020. I'm Jim Bartridge with  
6 Board staff. I'm joined by Jack Bastida and I want to turn  
7 it over to him real quick to provide some housekeeping  
8 comments about this Zoom meeting.

9 Go ahead, Jack.

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

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

19 Go ahead, Jim.

20 MR. BARTRIDGE: Great, thanks.

21 Okay, folks. So, as you know, the Citizen's  
22 Oversight Board, we typically meets three to four times per  
23 year. The first meeting occurs in February when we elect a  
24 chair and a vice chair to oversee our work throughout the  
25 year, and we also receive annual reports on the Proposition

1 39 activities from reporting agencies.

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

12           Today's meeting is also being held electronically and  
13 focusses on the annual program audit the Board receives from  
14 the State Controller's Office. Jim Venneman with the State  
15 Controller's Office will present an overview of the 2018-2019  
16 audit findings and results.

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

19           CHAIR ALVORD: Okay. Thanks Jim, very much.

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

25           As you all know, the California voters approved Prop

1 39, the California Clean Energy Jobs Act in 2012 to create  
2 jobs, save energy, and reduce costs and greenhouse gas  
3 emissions by investing in California's schools and community  
4 colleges. These Investments are also intended to provide job  
5 training and workforce development in order to promote the  
6 creation of new private sector jobs to improve the energy  
7 efficiency of commercial and residential buildings throughout  
8 California to help meet -- to help us meet our climate and  
9 greenhouse gas emission reduction goals.

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

21           And in particular today, I'd like to thank Board  
22 Member Dave Dias. He was appointed to the Board in 2016 and  
23 recently retired, so this will be his last meeting. And  
24 folks may not be aware, but Dave's last term actually expired  
25 in February of this year, but with coaxing, he agreed to

1 continue serving on the Board so we could get through this  
2 year's annual report and program audit.

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

7 MR. DIAS: Thank you so much.

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

11 MR. VENNEMAN: Jim Venneman, State Controller's  
12 Office.

13 CHAIR ALVORD: Hi, Jim. Anyone else?

14 MS. JUAREZ: Liliana Juarez, auditor, State  
15 Controller's Office.

16 CHAIR ALVORD: Thank you.

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

19 CHAIR ALVORD: Thank you, Derrick.

20 MS. KUROKAWA: I'm Lisa Kurokawa, I'm with the State  
21 Controller's Office.

22 CHAIR ALVORD: Hi, Lisa.

23 MR. PFANNER: William Pfanner, California Energy  
24 Commission.

25 CHAIR ALVORD: Great. Hi, Bill.

1 MS. GODFREY: Deborah Godfrey, California Energy  
2 Commission.

3 MR. ANGULO: Armand Angulo, California Energy  
4 Commission.

5 MS. KWONG: Christine Kwong, State Controller's  
6 Office.

7 MR. NGUYEN: Hoang Nguyen, Chancellor's Office for  
8 Community Colleges.

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

11 MR. VELASQUEZ: David Velasquez, California Energy  
12 commission.

13 CHAIR ALVORD: Okay. Let me ask, before we begin, if  
14 any Board members would like to offer any comments.

15 Okay. Seeing none, let's go back to Jim.

16 MR. BARTRIDGE: Great, thank you.

17 Let's -- let's go to roll call to make sure that  
18 we're all set. I think we are, but: Chair Alvord.

19 CHAIR ALVORD: Here.

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

22 MR. MARTINEZ: I'm here. Thank you.

23 MR. BARTRIDGE: Okay. David Dias.

24 MR. DIAS: I'm here.

25 MR. BARTRIDGE: Great. Barbara Lloyd.



1 MS. LLOYD: I'm here.

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

4 MS. LLOYD: Sure.

5 MR. BARTRIDGE: Heather Rosenberg.

6 MS. ROSENBERG: Here.

7 MR. BARTRIDGE: And Darrell Park.

8 MR. PARK: Here.

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

11 CHAIR ALVORD: Excellent. Okay, thank you.

12 The next item on the agenda is the approval of  
13 minutes from the April 3<sup>rd</sup>, 2020 meeting.

14 Is there a motion to approve the minutes?

15 MR. MARTINEZ: So moved.

16 CHAIR ALVORD: Thanks, Randall.

17 MR. DIAS: Second. Dave Dias.

18 CHAIR ALVORD: Thanks, Dave.

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

21 MS. LLOYD: Aye.

22 MS. ROSENBERG: Aye.

23 MR. MARTINEZ: Aye.

24 MR. DIAS: Aye.

25 MR. PARK: Aye.

1 CHAIR ALVORD: Any opposed?

2 Okay. The -- the minutes are approved.

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

7 And I believe that's Mr. Venneman.

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

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

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

24 So what I'm presenting today is a PowerPoint  
25 presentation outlining the relevant aspects of the Program

1 Audit that we just completed. So I'm going to try to share  
2 my screen and open up this PowerPoint presentation, see how  
3 this all works.

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

6           CHAIR ALVORD: Yeah.

7           UNKNOWN SPEAKER: Yeah.

8           UNKNOWN SPEAKER: Yes.

9           MR. VENNEMAN: Okay. All right. Good. Wonderful.  
10 This is all working. Okay. Okay.

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

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

22           So the first item up is audit authority, the  
23 objectives, the scope, and the methodology that we used. So  
24 for this audit, the -- our office and the Citizens Oversight  
25 Board entered into a one-year contract, or interagency

1 agreement on July 17<sup>th</sup> of 2019. That agreement said that we  
2 were going to develop an audit plan to include a selection of  
3 completed projects during the 2018 -- the fiscal year 2018-19  
4 completed projects. 80 percent of those were local education  
5 agencies, and 20 percent community college districts. We  
6 determined compliance with the Prop 39 program guidelines.

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

16           So as of June 30<sup>th</sup>, 2019, based on the information  
17 provided to us, California schools reported the following  
18 completed project costs under Prop 39. We had 234 LEAs with  
19 project costs totaling a little over almost \$172 million. In  
20 community college districts, we had 59 districts with project  
21 costs totaling just shy of \$67 million.

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

1 reported total expenditures of \$7.4 million, about 11 percent  
2 of the total.

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

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

14 MR. VENNEMAN: What was that?

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

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

1 we just went through there and tried to, on our best  
2 judgment, select representative sample of LEAs and college  
3 districts.

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

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

8 MR. VENNEMAN: Yep.

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

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

14 MS. LLOYD: Okay. Thank you.

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

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

23 If the LEA submitted an Energy Expenditure Plan,  
24 which I'll call an EEP from this point forward, that the  
25 Energy Commission, consistent with their project priorities,

1 that the Energy Commission approved those EEPs in compliance  
2 with the guidelines. The EEPs had all the required  
3 components. The required final report that they submitted  
4 had everything in there. The LEAs used a competitive bid  
5 process and did not sole source contracts to award project  
6 funds, that they had signed contracts, that they had  
7 everything in them. Project specification costs, energy  
8 savings, and that the districts had adequate documentation to  
9 support all of this.

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

21 So that's the basis for the audit -- here's the audit  
22 results. But we had monetary -- we have the findings. When  
23 we have finding in an audit, we have either monetary findings  
24 or nonmonetary findings. The difference is that for monetary  
25 findings, districts are usually required unless they appeal

1 these, to pay the funds back. A nonmonetary finding is a --  
2 is a violation of the guidelines. But I don't -- as I far as  
3 I know, there's no consequences for that other than, you  
4 know, don't do it again.

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

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

20 Now we had an observation. I'll go through the  
21 observation, explain why it's different than a finding. So  
22 we had two LEAs that received Prop 39 funds that exceeded the  
23 amounts of the -- in their approved EEPs. They were only  
24 about \$237,000. We brought this issue to the attention of  
25 the Department of Education. And the Department of Education



1 agreed with us that yeah, the two districts received excess  
2 payments likely due to changes made in their Planning Fund  
3 Budgets and the lack of Final Completion Reports, when they  
4 apportioned the funds.

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

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

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

1 opposed to an excess payment of program funds.

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

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

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

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

19 We agree with the SCO in the sense that there are  
20 unused funds at the LEA and the unused funds since the --  
21 everything has been completed should be returned to the  
22 state. However, we don't see it as an overpayment and we  
23 make the distinction that for -- for planning funds, the LEA  
24 requests the funds within the first year of eligibility and  
25 so there's no issue with the payment of the planning funds

1 later when one or more project gets approved by the Energy  
2 Commission. We release payment for the amounts of those  
3 projects. So in some cases the districts, you know, they  
4 receive their planning funds and they receive their e-project  
5 funds. In this case if they were intending to then later  
6 roll project, or planning funds into the project, which is  
7 their right to do, or they could, and which they did in this  
8 case, then they would have surplus funds. But it would not,  
9 we don't see that as an overpayment.

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

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

19           MR. ANDRADE: Well the --

20           MS. LLOYD: Did I interpret that correctly?

21           MR. ANDRADE: Well I think -- yes, partly. But we  
22 would not say that they could use planning funds to exceed  
23 the amount of the approved EEP. So the planning funds, they  
24 can be used for planning activities that are described in the  
25 guidelines, things such as energy consultant, energy audits,

1 and those things. And they can also be used to implement the  
2 project. So there's no -- I don't think they found an issue  
3 there with, you know, the ineligible expenditures in that  
4 regard.

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

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

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

21           MR. ANDRADE: Sure.

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

24           So I'm a little confused. Is it the case that in --  
25 some districts have included in their EEP the anticipation of

1 rolling over some amount of project funds and therefore  
2 included those amounts in their EEP to sort of create room  
3 for that additional monies and some did not. And that's why  
4 some of them ended up looking like they had spent excess  
5 money and others did not?

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

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

19 MS. LLOYD: And because you guys -- well, let's just  
20 say this, I'm as confused as I started, as I was at the start  
21 of my question, as to whether or not these districts have a  
22 need to return funds or not. Because it seems to me on one  
23 hand we are saying that they had the right to spend extra  
24 planning money on appropriate uses, but if that expenditure  
25 resulted in more being spent than the EEP had indicated, that

1 that is not allowable. And in which case, even though  
2 they've spent the money, quote legitimately, because it came  
3 out to more than they had put in the EEP, they have to give  
4 it back.

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

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

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

20 So what's happened is, is some -- not all districts  
21 spend all their planning funds. And if they didn't do that,  
22 they would roll them over to implementation costs and some  
23 districts used all their, what we call unused planning funds  
24 for project implementation and they used all those costs, all  
25 those funds, for project implementation.

1           In some cases, districts didn't use all their  
2 planning funds and they -- they didn't roll them over to  
3 project implementation because they didn't need to because  
4 the amount of the approved in the EEP covered all their  
5 costs. So when everything was done and all their projects  
6 were completed, they had these unused planning funds that  
7 they had received in excess of the amount it was approved --

8           (Telephone ringing obliterated speaker.)

9           UNKNOWN SPEAKER: Sorry about that. Turn it off.

10          UNKNOWN SPEAKER: Are you hearing that Deborah?

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

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

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

24           I just want to clarify to Barbara that our finding is  
25 titled Unused Planning Funds, so we are in agreement with CDE

1 that it is unused planning funds, not like overspent funds.  
2 So there is no discrepancy, I think, between us and CDE. I  
3 think we're all in alignment. And these two districts have  
4 the money in a pot and are ready to remit it back to the  
5 state whenever --

6 MS. LLOYD: Perfect.

7 MS. KUROKAWA: -- CDE bills them.

8 MS. LLOYD: There was some other aspect of the way  
9 that was described that it made me believe that those unused  
10 planning funds had actually been spent.

11 MS. KUROKAWA: No. No.

12 MS. LLOYD: Thank you.

13 MR. VENNEMAN: Yeah, we've gone round and round with  
14 this on how to -- how to word this thing so it makes sense.  
15 We always end up talking about this every year.

16 MS. LLOYD: Yeah. No, I'm good. That was the  
17 fundamental misunderstanding that I came away with.

18 CHAIR ALVORD: Well you -- your misunderstanding was  
19 shared, Barbara, so I really appreciate all of the  
20 explanation because I was confused about the same point.  
21 Thank you.

22 MR. VENNEMAN: Yeah, we had lengthy discussions with  
23 CDE when this first came up, you know, how do we describe  
24 this because, you know, we know how to write audit findings  
25 but this is not -- this is not that. So we went back and



1 forth with them. As Lisa just said, about our audit report  
2 actually calls it unused -- unused planning funds, so that's  
3 because that's what it is.

4 MS. KUROKAWA: Yes.

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

6 Does anybody have any other questions?

7 CHAIR ALVORD: Questions or comments?

8 MR. PARK: This is Darrell Park.

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

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

18 MR. VENNEMAN: Well, okay, so if we -- first of all,  
19 let me clarify. If we -- if we were to run into that issue,  
20 so the issue then is if a charter school used Prop 39 money  
21 and they completed their project and then they went out of  
22 business or they sold their facilities, so the question is  
23 did they, for us as auditors is, did they receive the energy  
24 pay back that they were supposed to receive before they  
25 disposed of their facilities?

1           Now that hasn't -- that hasn't come up but it's  
2 interesting that you mention that because in the districts  
3 that we selected for this coming year, we have two charter  
4 schools that did just that, so we're going to be looking into  
5 that for this upcoming audit.

6           MR. PARK: Okay. Thank you.

7           CHAIR ALVORD: Good question.

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

12          CHAIR ALVORD: Okay. Other questions or comments?

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

15          CHAIR ALVORD: Please.

16          MS. LLOYD: Thanks. I don't like to monopolize.

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

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

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

1 observation or recommendation.

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

15           CHAIR ALVORD: I guess that's for CDE.

16           MR. BARTRIDGE: So Barbara, I think your  
17 question -- yeah, so let's -- let's go three ways here.

18           CDE, if Derrick, you can respond to that. I know  
19 Bill Pfanner's on the phone as well that he can probably  
20 respond to what's happened on the CEC side. And then I think  
21 Hoang Nguyen is on as well from Community Colleges to be able  
22 to respond. So if we could go in that order, that would be  
23 great.

24           MS. LLOYD: That'd be great.

25           MR. BARTRIDGE: Derrick.

1 MS. LLOYD: Derrick, you might be on mute if you're  
2 trying to speak.

3 CHAIR ALVORD: I'm not seeing him on our list right  
4 now.

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

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

8 MR. PFANNER: Yes.

9 MR. BARTRIDGE: Okay. Thank you.

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

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

23 MS. LLOYD: In the contract.

24 MR. PFANNER: Right. In the contract. That that is  
25 something that the Energy Commission would not see. That is

1 between the LEA and their contractor, so we don't see it.  
2 It's clearly in the guidelines for Prop 39 but, you know,  
3 it -- the past is the past of what has happened already, so  
4 those contracts are done.

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

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

19 MR. PFANNER: Yeah. Right.

20 MS. LLOYD: We suggested a little bit of a proactive  
21 attitude on the part of the control agencies to let folks  
22 know that these were findings that we imagined could be cured  
23 with just a little bit of attention. But it -- at least if  
24 that outreach did occur, these particular districts did not  
25 get it or didn't follow it. I just was curious if there had

1 been anything in -- anything specifically that either CDE or  
2 the Community Colleges, or Energy Commission could point to  
3 other than somebody, you know, watching the outcome of these  
4 meetings would've been able to, you know, gain some lessons  
5 learned from that.

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

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

13 MR. PFANNER: Yeah.

14 MR. BARTRIDGE: And Hoang, are you -- are you with us  
15 as well?

16 MR. HOANG: Yes. I'm here.

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

20 MR. NGUYEN: Definitely.

21 MR. BARTRIDGE: Thank you.

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

24 In regards to the question about the energy savings  
25 on the actual contracts between the districts and the

1 vendors, or vendors themselves. We've been in communication  
2 every time this has happened for the past four or five years  
3 that, in talking with the chief business officers or vice  
4 presidents, the contractors would not sign off on any  
5 contract where it stipulates a certain agreed upon energy  
6 savings. So that has all been a point of contention.

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

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

22 MS. LLOYD: Sure.

23 MR. NYUGEN: So it's a start to finish kind of deal  
24 to verify the SIR ratings before the -- before the vendor  
25 even comes on to do the work.

1 MS. LLOYD: Okay.

2 MR. NYUGEN: We feel that that's a viable workaround.

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

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

19 And I guess one other idea that I have that I'm  
20 certainly open to hearing from people is on the sole source  
21 issue. It -- at the surface it appears that those most  
22 likely to engage in sole sourcing are the smaller districts  
23 for whom there may not -- the amounts of the contracts may be  
24 fairly low, you know, under 50,000 here or there or their  
25 access to prequalified vendors may be very -- very limited



1 and therefore it could be prohibitively expensive to do a  
2 full blown, you know, RFQ, RFP process.

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

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

20 So any thoughts are welcome. I think I'm done.

21 CHAIR ALVORD: Well, my only heavy addendum to that  
22 is that I don't think I could get reimbursed on an invoice  
23 for -- without a contract, a signed contract with a  
24 contractor in my own organization and I'm astonished that  
25 that is able to happen.

1           So any -- any constructive ideas that people have,  
2 like Barbara's, I would welcome as well.

3           Any other comments or questions?

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

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

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

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

21           CHAIR ALVORD: Yeah.

22           MS. LLOYD: Because certainly a purchase order is a  
23 legitimate means of documenting the payment for services.  
24 And maybe the word contracts is being viewed too  
25 restrictively.

1 CHAIR ALVORD: That's a good clarification.

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

6 MR. BARTRIDGE: The clarification's very helpful.  
7 Thank you.

8 CHAIR ALVORD: Any further questions or comments?  
9 Randall? Dave? Heather?

10 MS. ROSENBERG: None from me, thanks.

11 CHAIR ALVORD: Okay.

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

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

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

24 The Chair had mentioned in a little bit of  
25 correspondence that there may be an active bill, active being

1 sort of maybe a euphemism, but looking at expanding this type  
2 of program. And if there's a chance that that bill would go  
3 forward in this session, I think it would behoove us to  
4 contact Assembly Member Ting's office and -- and make sure  
5 that they're not replicating some problems of the past. But  
6 if it's unlikely to go forward, then I think we could just,  
7 you know, focus on next year's report.

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

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

18 CHAIR ALVORD: Yeah. Yeah.

19 MS. LLOYD: Thank you.

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

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

24 MS. LLOYD: Yeah, and I'm happy to move to accept the  
25 audit.

1 CHAIR ALVORD: Thank you, Barbara.

2 MR. PARK: I'll second. This is Darrell.

3 CHAIR ALVORD: Thanks, Darrell.

4 Okay. All in favor, signify by saying aye.

5 MS. LLOYD: Aye.

6 MS. ROSENBERG: Aye.

7 MR. MARTINEZ: Aye.

8 MR. DIAS: Aye.

9 MR. PARK: Aye.

10 CHAIR ALVORD: All opposed? Any opposed?

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

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

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

20 Deborah.

21 CHAIR ALVORD: Oh, thank yo

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

25 The second ECAA-Ed Competitive Solicitation was

1 released in February, on February 25th of this year with a  
2 final application date in the end of June. But then due to  
3 COVID, it was extended until tomorrow, August 27<sup>th</sup>. And  
4 we're, you know, anxiously waiting to see how many come in  
5 but at this point we don't have any idea what has happened.  
6 They don't tell us.

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

15 And as you may recall, the first PON was for 36  
16 million, had 21 applicants, but only seven met the  
17 administrative and technical criteria and were funded. Those  
18 seven totaled 6.7 million, which was far less than the 36  
19 million that was available. Probably a good portion of that,  
20 those problems, were because after years of familiarity with  
21 the first come, first serve process of ECAA, there was some  
22 uncertainty and apprehension with the competitive process.  
23 It scared a lot of people. Just the word competitive scared  
24 a lot. And it was also a learning curve for all of us, so  
25 the consultants, the applicants, and CEC staff.

1           And based on what we learned from that first  
2 solicitation in discussions with LEAs and the consultants  
3 after the last solicitation closed, we enhanced the  
4 directions and beefed up the admonishments to make the  
5 requirements clearer, do a little more handholding and ease  
6 some fears associated with a competitive process. And  
7 hopefully we're expecting that there will be an increase in  
8 the number and especially in the quality of the submissions  
9 that will be received by 5:00 tomorrow.

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

18           CHAIR ALVORD: Thank you, Deborah.

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

22           MR. BARTRIDGE: Well, we'll have that conversation  
23 whether we're going to have a December meeting or not. I  
24 think last year we opted not to but let's see where we're at  
25 and you and I can have some conversation. If not, we can

1 certainly bring it up into the February meeting. So look  
2 forward to having that conversation.

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

4 MS. GODFREY: You're welcome.

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

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

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

12 Jack, anybody raising their hands or anything in  
13 chat?

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

15 MR. BARTRIDGE: Nope.

16 CHAIR ALVORD: Okay. Going once, going twice.

17 And I guess with that, unless there's objection, I  
18 believe we can adjourn until our next meeting.

19 Is that correct, Jim?

20 MR. BARTRIDGE: That's correct.

21 CHAIR ALVORD: Okay.

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

23 CHAIR ALVORD: Without objection.

24 MS. LLOYD: Be safe. Be sane.

25 CHAIR ALVORD: Thank you, everyone.



1 MR. BARTRIDGE: Thank you, all.

2 CHAIR ALVORD: Thank you, Dave. Take care.

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

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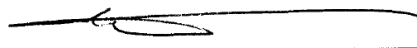
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