

December 29, 2021

Wade Crowfoot, Secretary  
California Natural Resources Agency  
715 P Street, 20th Floor  
Sacramento, CA 95814

Dear Secretary Wade Crowfoot,

In accordance with the State Leadership Accountability Act (Leadership Accountability), the Energy Resources Conservation and Development Commission submits this report on the review of our internal control and monitoring systems for the biennial period ending December 31, 2021.

Should you have any questions please contact Linda Spiegel, Chief Deputy Director, at (916) 764-5687, [Linda.spiegel@energy.ca.gov](mailto:Linda.spiegel@energy.ca.gov).

## **GOVERNANCE**

### **Mission and Strategic Plan**

The Energy Resources Conservation and Development Commission (CEC) is the state's primary energy policy and planning agency. Located within the California Natural Resources Agency (CNRA), the Energy Commission is led by five commissioners appointed by the Governor and confirmed by the Senate. The executive director, who reports to the Chair of the Commission, oversees the budget and staff of the agency. The Energy Commission currently has 750.2 authorized positions.

Seven core responsibilities guide the Energy Commission as it sets California energy policy:

- Forecasting future energy needs;
- Promoting energy efficiency and conservation by setting the state's appliance and building energy efficiency standards;
- Supporting energy research that advances energy science and technology through research, development, and demonstration projects;
- Developing renewable energy resources;
- Advancing alternative and renewable transportation fuels and technologies;
- Certifying thermal power plants 50 megawatts and larger and overseeing their construction, operation, and closure;
- Planning for and directing state response to energy emergencies.

The Energy Commission's strategic goals and objectives are outlined in our Strategic Plan, available at: [California Energy Commission Strategic Plan](#)

### **Control Environment**

The CEC has established an organizational structure, processes, and procedures to monitor agency activities, address vulnerabilities, and ensure regular and transparent communication. These internal controls provide reasonable assurance the CEC will achieve its objectives and mission.

A commission comprised of five commissioners appointed by the Governor and confirmed by the Legislature helps provide oversight of the agency. The organization is led by the Executive Director, who is positioned at the top of an organization structure that is generally hierarchical and helps establish appropriate levels of responsibility and authority. The Executive Director and his management team monitors agency activities through a variety of mechanisms, including one-on-one meetings; a chain-of-command formal review process for work products, grant/contract agreements, programmatic decisions, and internal and external communications; and a robust annual work plan development and approval process. The agency's internal control system and processes were documented in a June 7, 2018 memorandum to the executive leadership team. In addition, the agency has documented, and the commission has approved, grant management decision-making authority levels. Lastly, internal review and approval forms assist in documenting critical control systems and helping ensure compliance.

The Executive Director has established the core values of service, excellence, and accountability for all employees, including management; these values are incorporated into the agency's employee expectations and employee recognition programs. The agency strives to recruit and maintain a competent workforce through consistent and appropriate hiring practices and through workforce management strategies that include annual performance evaluations and accountability. To facilitate this, a biweekly meeting of executive leadership is held to develop and implement appropriate and consistent workforce management practices. Each February, the agency conducts an employee performance evaluation process; compliance with this process is tracked by the personnel office and the executive office to ensure evaluations are completed for all employees possible.

### **Information and Communication**

The CEC's process for ensuring information needed for operational, programmatic, and financial decision-making is relevant relies on information being reviewed and approved through an established and documented review process.

Meetings and other communications conducted to ensure policies, procedures, and program activities are communicated throughout the agency include:

- The Executive Office conducts a weekly meeting with Deputy Directors to communicate programmatic updates across the divisions, address and coordinate administrative activities, and identify the need for and implement new internal control systems.
- A biweekly meeting held with Deputy Directors and appropriate Assistant Executive Directors focuses on developing and improving policies and procedures associated with hiring, recruitment, retention, and staffing. This issue was identified by Commission management as a key risk as part of prior State Leadership Accountability Act Risk Assessment processes.
- Communication to staff of agency policies, procedures, and events is accomplished through a variety of mechanisms, including using management communication down the organizational structure, "all-hands" correspondence, as appropriate, divisional brown bag meetings, and frequent updates to the Commission's "Comms Hub."
- Communication with Commissioners to communicate program updates and to receive policy direction includes monthly Lead Commissioner meetings as well as the provision of briefings on Business Meeting items and on critical issues as they arise.
- Communication with the California Natural Resources Agency (CNRA) regarding emerging critical issues and ongoing programmatic activities is conducted through the submission of a

biweekly report; a monthly Chief Deputy Director meeting, regular meetings with the CNRA Secretary and Chair and Executive Director of the CEC; as well as the provision of communications and briefings on critical issues as they arise. In addition, for critical informational items or for items that require CNRA approval, a significant issues report is prepared and submitted by the Energy Commission's lead staff to CNRA.

- Communication with the Governor's Office includes regular weekly meetings with the Executive Director and the Chair, email correspondence as appropriate, and the preparation and submittal of Governor's Office action requests for action and informational items. All agencies under the CNRA provide a calendar of significant events of interest to the Governor's Office on a quarterly basis.

These communication protocols are documented in a June 7, 2018 memorandum to all members of the executive leadership team.

Written communication with external stakeholders is accomplished through stakeholder listserv email notifications and updates to our websites, which are generated by program staff and go through a consistent and documented internal review process. The CEC also communicates with the public using public workshops and meetings, which are formally noticed and adhere to all requirements associated with the Open Meeting Act. In addition, all documents associated with formal proceedings that result in policy or programmatic development and modifications are required to be posted into a publicly accessible docket.

Employees are able to report inefficiencies and inappropriate actions to management and other decision makers by raising it to their direct supervisor for consideration and possible elevation through the chain of command. If the direct supervisor is involved, the employee may go up the chain one level to report the action. Depending on the nature of the inappropriate actions, the employee may also report issues to the agency's Equal Employment Opportunity Officer. Lastly, the agency has an anonymous, electronic suggestion box read only by the Executive Director and executive leadership team members that can also be used to report inefficiencies and inappropriate actions.

## **MONITORING**

The information included here discusses the entity-wide, continuous process to ensure internal control systems are working as intended. The role of the executive monitoring sponsor includes facilitating and verifying that the Energy Resources Conservation and Development Commission monitoring practices are implemented and functioning. The responsibilities as the executive monitoring sponsor(s) have been given to: Drew Bohan, Executive Director.

An important part of the CEC's monitoring activities is the auditing activities performed by the agency's Audits, Investigations, and Program Review (AIPR) unit, headed by the Chief Auditor. The AIPR team provides independent and objective assurance and consulting services designed to contribute to the effectiveness and efficiency of the CEC's governance, risk management, and control processes.

Each year, AIPR staff along with the Chief Auditor perform a risk assessment of the activities and business processes of the CEC. Based on the results of the risk assessment, the Chief Auditor prepares an annual audit plan identifying the audit assignments for the upcoming fiscal year. Two commissioners serve as the agency's Audit Committee that reviews and approves the audit plan. Once an audit is complete, a documented audit resolution process is carried out to ensure appropriate

actions are identified and implemented by relevant program management to address audit findings. If AIPR determines the actions proposed by program management represent a significant risk to the CEC, the Chief Auditor will communicate the risk to the Executive Office and/or the Audit Committee.

In addition, the Executive Office monitors agency activities through a variety of mechanisms. Each Deputy Director, each Assistant Executive Director, the Public Adviser, and the Chief Counsel has routine one-on-one meetings with the Executive Office to discuss critical items, program updates, and personnel issues.

Agency-wide monitoring and review of work products, out-of-state travel and conference requests, grant/contract agreements and amendments, and external and public communications are conducted through a standardized, routed review. This approval process includes, as appropriate, our Contracts, Grants, and Loans Office; Chief Counsel's Office; Media and Public Communications Office; Office of Governmental Affairs; Executive Office; and Commissioners' Offices. Standardized routing forms are available on the Commission's intranet page. These approval processes identify and address vulnerabilities and risks associated with agency action.

The main processes directed at addressing vulnerabilities identified through monitoring are documented in an agency memo dated June 7, 2018.

Before the beginning of each fiscal year, a robust work plan process is used across all divisions and several small offices to identify next year's programmatic priorities, analyze anticipated resource needs, identify strategies to address imbalances between resource availability and needs, and receive approval from Executive Office and Commissioners on workload and resource requests. This work plan directs the next fiscal year's contract funds requests and student and retired annuitant requests and informs ongoing staff resource allocations.

## **RISK ASSESSMENT PROCESS**

The following personnel were involved in the Energy Resources Conservation and Development Commission risk assessment process: executive management, and middle management.

The following methods were used to identify risks: brainstorming meetings, ongoing monitoring activities, and other/prior risk assessments.

The following criteria were used to rank risks: likelihood of occurrence, potential impact to mission/goals/objectives, timing of potential event, potential impact of remediation efforts, and tolerance level for the type of risk.

## **RISKS AND CONTROLS**

### **Risk: Risk: Key Person Dependencies**

The CEC performs highly technical work that often requires specialized skill sets. In several key programmatic areas, there are key staff dependencies where only one person has the historic or technical knowledge needed to perform a critical function. In addition, many supervisors and managers are also key person dependencies—ones that are often difficult to fill with a qualified candidate.

Exacerbating this risk is the rate of retirements expected in the next five years. In 2019, 15 CEC employees retired followed by 19 in 2020 and 22 in 2021. Approximately 25 percent of the agency's remaining workforce is of retirement age (55 or older).

**Control: Control: Workforce Development**

Workforce development, including mentorship and strategic workload assignments, can help mitigate this risk by creating opportunities to expand historic and/or technical knowledge associated with performing a critical function beyond one staff person.

In 2020 the Recruitment and Outreach Coordinator established a formal mentoring pilot program to facilitate staff development and to address specific key dependencies. The CEC also conducted a survey of known key dependencies across the agency and worked with managers to identify appropriate works assignments to diversify staff knowledge and experience.

Currently a workgroup is developing the framework and resources for an agency-wide mentoring program. The program is expected to roll-out in early 2022.

In 2021, the recruitment and outreach team increased attention on career counseling. Career Counseling is a retention strategy focused on informing staff of career pathways within the CEC.

**Risk: Risk: Recruitment/Retention**

A variety of factors contribute to the difficulties the CEC has recruiting and retaining quality staff. The CEC lacks pay parity with other key state energy agencies, mainly the California Public Utilities Commission (CPUC), the California Air Resources Board (CARB) and the Department of Water Resources (DWR). As a result, many staff leave the CEC for higher compensation elsewhere. In addition, recruiting a robust, diverse, and competent applicant pool has been highly challenging, resulting in drawing out or repeating hiring processes; leaving key positions vacant in the absence of a qualifying candidate; and not completing work within deadline/timeframe due to a lack of sufficient resources.

**Control: Recruitment Activities**

In 2021, the CEC added an analyst to the recruitment and outreach team to assist with developing a process to handle high level and hard to fill vacancies. The new analyst has also partnered with recruiters from other agencies under the California Natural Resources Agency to streamline recruitment practices. In 2021 the recruitment team implemented an applicant tracking system (ATS), compilation of diverse networks for outreach, and accessing/identifying resources and tools to assist with reaching more candidates.

In 2022, the recruitment and outreach unit strategic plan includes creating targeted recruitment materials and increasing the CEC's social media presence via LinkedIn and other online recruiting tools.

**Control: Retention Activities**

In April 2019, the CEC hired a Recruitment and Outreach Coordinator whose duties include providing oversight over recruitment, retention, workforce planning, and succession planning.

In 2019, an exit survey was implemented to gather data on the factors that contribute to employees leaving the CEC. In 2020, the CEC conducted an employee engagement survey to obtain additional information on opportunities to improve staff retention.

### **Control: Pay Parity Request**

The CEC has been working on resolving pay parity issues that impact the recruitment and retention of key leadership positions. Previously, the CEC attempted to resolve pay parity concerns through the labor negotiation process. The CEC presented CalHR with a harvest memo in early 2020 that starkly outlines the substantial pay differences between CEC and CPUC staff working side by side on the same legislative mandates. CEC staff are paid from 11 percent to nearly 40 percent less than their CPUC counterparts. CalHR advised us to pursue a Special Salary Adjustment (SSA) to address these salary disparities. In November 2021, CEC provided an SSA request to CalHR.

The CEC's central argument in the SSA request is salary compaction for two of our key management classifications – the Energy Resources Specialist III (Managerial) and the Energy Resources Specialist III (Supervisory). These key managers are actually paid less than several classifications that they supervise. The CEC's SSA asks CalHR to increase these salaries to no less than 10 percent above their subordinates.

In 2022, the CEC will continue to engage CalHR in this process.

### **Risk: Structural Deficit**

One of the CEC's main funding accounts, the Energy Resources Programs Account (ERPA), remains in a structural deficit. Its revenues are linked to the sale of metered electricity. As building and appliance energy efficiency and the increase of behind-the-meter solar produce customer savings and flatten statewide electricity consumption, ERPA revenues have decreased and the costs have been borne by fewer and fewer customers.

### **Control: Budgetary Action**

The CEC has taken aggressive action to reduce the ERPA structural deficit by nearly \$40 million over four budget cycles (fiscal years 2017-18 to 2020-21) by reducing costs, increasing revenue, and aligning activities with appropriate fund sources. However, increased expenses and an eroding revenue base countered these reductions.

For the past several years, the CEC, in consultation with the Department of Finance, has been tasked with developing a plan to bring ERPA revenues and expenditures fully into balance. The CEC will continue to work with the Department of Finance to address and resolve the structural deficit.

### **Risk: Influx of Funds**

In the 2021-22 State Budget, the CEC received an influx of hundreds of millions of dollars for current and new programs. The federal Infrastructure Investment and Jobs Act will also likely increase funding to the CEC. These new funds will enable the CEC to implement aggressive climate change policies. At

the same time, this large influx of funds comes with pressure to release funds timely and to ensure funds are well spent. The success of these programs is, in part, dependent upon the sufficiency of funds for program administration.

### **Control: Mature Grant Management Process**

The CEC has expertise in grant program design, mature grant management processes, and an internal audit unit. These three elements will help the CEC absorb this additional funding, ensure the timely release of funds, and ensure the integrity of the programs.

## **CONCLUSION**

The Energy Resources Conservation and Development Commission strives to reduce the risks inherent in our work and accepts the responsibility to continuously improve by addressing newly recognized risks and revising risk mitigation strategies as appropriate. I certify our internal control and monitoring systems are adequate to identify and address current and potential risks facing the organization.

**Drew Bohan, Executive Director**

CC: California Legislature [Senate (2), Assembly (1)]  
California State Auditor  
California State Library  
California State Controller  
Director of California Department of Finance  
Secretary of California Government Operations Agency