

December 23, 2021

Natalie Palugyai, Secretary  
California Labor and Workforce Development Agency  
800 Capitol Mall, Suite 5000  
Sacramento, CA 95814

Dear Secretary Natalie Palugyai,

In accordance with the State Leadership Accountability Act (Leadership Accountability), the Department of Industrial Relations 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 Mathew Raute, Chief Auditor, at (916) 860-2219, [MRaute@dir.ca.gov](mailto:MRaute@dir.ca.gov).

## **GOVERNANCE**

### **Mission and Strategic Plan**

The Mission of the Department of Industrial Relations (DIR) is to improve working conditions for California's wage earners and advance opportunities for fair and profitable employment, educate workers and employers on their rights and responsibilities, ensure health and safety in the workplace, vigorously enforce labor laws, and safeguard the interests of injured workers and employers.

This is accomplished through the following strategic goals:

- Goal 1: Ensure Workers Health, Safety and Rights are Safeguarded
- Goal 2: Support Employer Education and Ensure Equitable Enforcement
- Goal 3: Continue Improving Access and Efficiency of Services
- Goal 4: Investing in Our Team

The following boards, commissions, and divisions provide the core business functions through which DIR accomplishes its mission:

**DIVISION OF WORKERS' COMPENSATION:** The Division of Workers' Compensation monitors the administration of workers' compensation claims, attempts to minimize disputes through outreach to employers and injured workers by providing program information and assistance, and provides administrative and judicial services to resolve disputes that arise in connection with claims for workers' compensation benefits. The Division conducts audits of workers' compensation claims administrators for compliance with the benefit delivery system required by the Labor Code, and authorizes payment of workers' compensation benefits to injured workers from the Uninsured Employers Benefit Trust Fund and the Subsequent Injuries Benefit Trust Fund. The Division promotes the practice of early and sustained return to work of injured employees. The Division also administers a workers' compensation information system designed to provide information to policymakers regarding the effectiveness and efficiency of the benefit delivery system. Under the administrative direction of the Office of the Director, the Division also oversees utilization review, the Medical Treatment Utilization Schedule, and the

prescription drug formulary to help promote the quality and timeliness of evidence-based medical care for injured workers. Additionally, the Anti-Fraud Unit combats workers' compensation fraud in California by identifying providers who are subject to suspension from the workers' compensation system.

**DIVISION OF OCCUPATIONAL SAFETY AND HEALTH:** The Division of Occupational Safety and Health (Cal/OSHA) promotes and enforces the sections of the Labor Code that protect the health and safety of workers on the job and the safe operation of elevators, amusement rides, aerial passenger tramways, and pressure vessels for the benefit of the general public. The coordinated efforts of Cal/OSHA, the Occupational Safety and Health Standards Board (Standards Board), and the Occupational Safety and Health Appeals Board (Appeals Board) accomplish these objectives. Cal/OSHA enforces occupational safety and health standards, investigates the causes of occupational deaths and injuries and helps employers to maintain safe and healthful working conditions. Cal/OSHA conducts inspections and issues permits for the operation of elevators and other conveyances, amusement rides, aerial passenger tramways and pressure vessels. The inspection and permitting process is the primary method used to enforce standards governing the safe operation of these devices. Under the administrative direction of the Office of the Director, Cal/OSHA also obtains and maintains job safety records, reports, and statistics; measures the effectiveness of accident and illness prevention efforts in the workplace; and provides accurate information pertaining to industrial relations to help inform legislative and administrative decisions made by state and local government.

**DIVISION OF LABOR STANDARDS ENFORCEMENT:** The Division of Labor Standards Enforcement (Labor Commissioner's Office) interprets and enforces the sections of the Labor Code which relate to wages, hours of work, and conditions of employment, including anti-retaliation laws addressing employees engaged in protected activities, as well as implementing Industrial Welfare Commission Wage Orders. This work is conducted by providing field enforcement of laws governing public works, workers' compensation insurance, child labor, unlicensed contractors, rules governing meals and rest periods, the payment of overtime and minimum wage; making wage determinations and collecting unpaid wages; the licensing of specific industries; the payment of wages without required deductions; administration of the prevailing wage program and enforcement of apprenticeship related requirements relative to public works projects. Under the administrative direction of the Director's Office, the Labor Commissioner's Office conducts vigorous and targeted enforcement in partnership with state and federal agencies against unscrupulous businesses participating in the "underground economy".

**DIVISION OF APPRENTICESHIP STANDARDS:** The Division of Apprenticeship Standards (DAS) matches the needs of workers with those of employers, and strengthens the apprenticeship alliance among industry, labor, education and government for recruiting workers and teaching the skills they and their employers need. The goals of DAS are to promote, develop and expand on-the-job training and apprenticeship programs, as well as provide consultation services to program sponsors. DAS administers the apprenticeship system in California. This includes initial program approval and subsequent oversight activity such as annual reviews and audits as required by the Labor Code to ensure that apprenticeship programs and employers are in compliance with approved standards and labor laws.

**SELF-INSURANCE PLANS:** This program regulates workers' compensation self-insurance plans by verifying that each self-insured employer and group of employers that is issued a Certificate of Consent to Self-Insure meets the statutory requirements for self-insuring, and is actually able to provide workers' compensation benefits to employees. The program requires that each self-insured private-sector

employer post a security deposit adequate to pay all workers' compensation benefits in the event that the employer defaults on its obligations.

**WORKERS' COMPENSATION APPEALS BOARD:** The Workers Compensation Appeals Board reviews petitions for reconsideration of decisions issued by the workers' compensation judges in the Division, participates in appellate court proceedings as necessary or when requested by the court, and regulates the workers' compensation adjudication process.

**COMMISSION ON HEALTH AND SAFETY AND WORKERS' COMPENSATION:** The Commission on Health and Safety and Workers' Compensation is responsible for monitoring the states' workers' compensation and health and safety programs. This involves examining the workers' compensation system and the state's activities to prevent industrial injuries and occupational diseases, which includes making recommendations on program improvements, as well as maintaining the occupational safety and health training and education program and funding an insurance loss control services coordinator. The Commission conducts specified surveys and evaluations required by law and issues an annual report on the state of the workers' compensation system, including recommendations for administrative or legislative modifications. The Commission also issues, if necessary, a report and recommendations on the improvement and simplification of the notices required to be provided by insurers and self-insured employers.

**OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD:** The Occupational Safety and Health Standards Board is an independent body consisting of seven members appointed by the Governor and is composed as follows: one member from the general public, two members from the field of management, two members from the field of labor, one member from the field of occupational health and one member from the field of occupational safety. It is the sole agency in the state empowered to adopt, amend, or repeal the occupational safety and health standards and public safety standards enforced by Cal/OSHA.

**OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD:** The Occupational Safety and Health Appeals Board is an independent judicial body empowered by state law to resolve employer appeals of citations and accompanying monetary civil penalties issued by Cal/OSHA for occupational safety and health standards violations. It is comprised of three members appointed by the Governor, consisting of one member from the general public, one member from the field of management and one member from the field of labor.

**CLAIMS, WAGES, AND CONTINGENCIES:** The objectives of this program are to pay claims, wages, or contingency benefits, and to provide for payment of workers' compensation benefits to employees whose illegally uninsured employers have failed to make the benefit payments required under the Labor Code. The Labor Code establishes special accounts in which the Labor Commissioner deposits a portion of each Farm Labor Contractor's, Garment Manufacturer's, and Car Wash Operator's annual license fee. Funds from these accounts are to be disbursed for any wages to employees which exceed the limits of a licensee's bond or time certificate.

**DIVISION OF ADMINISTRATION:** The Director's Office and the Division of Administration provide support to all entities in accomplishment of the overall mission of the department, and help ensure compliance with all laws, rules, and policies of the State of California and the Department of Industrial Relations.

## **Control Environment**

DIR has adopted the following core values as part of its Strategic Plan:

- Accountability – commitment to willingness to accept responsibility.
- Integrity – commitment to being open, honest, and ethical.
- Compassion – commitment to being empathetic and considerate.
- Diversity – commitment to seeking and respecting diverse perspectives.
- Customer Service – commitment to providing timely and quality customer service.
- Innovative – commitment to finding creative solutions to improve service delivery.

DIR is overseen by the Director and Chief Deputy Director. The core Executive Leadership Team is comprised of the Chief of Administration, Chief Financial Officer, Chief Information Officer, Chief of Human Resources, Chief Auditor, and Division Chiefs / Executive Officers of all Divisions, Boards, and Commissions. Through their directives, attitudes, and behavior, the Executive Leadership Team sets the tone at the top regarding ethical values and integrity. Establishing a strong tone at the top regarding ethical behavior and integrity is fundamental to DIR's ability to create and sustain an effective internal control system.

Human Resources (HR) leads the efforts in establishing and maintaining a competent workforce. The Training Office within HR works to provide DIR employees with learning opportunities to develop and apply new skills and embrace professional excellence for continuous self-improvement. Organizational charts, departmental policies, operational protocols, and desk procedures comprise the framework of the control system's documentation. Components of this framework are reviewed and revised on a periodic basis.

DIR has recently revised procedures to ensure merit-based hiring at all levels of the organization, as well as, increase resources to ensure that departmental policies related to bullying, workplace violence, discrimination, sexual harassment, and ethics are upheld. In addition, DIR has made efforts to ensure that complaints regarding inappropriate behavior are investigated on a timely basis.

Finally, DIR has recently established an Audit Committee to enforce accountability and assist all levels of DIR operational management with their oversight responsibilities for matters related to legal, ethical, and regulatory compliance.

## **Information and Communication**

DIR strives to communicate quality information both internally and externally to achieve its objectives. The Department issues enterprise wide emails, memorandums, and individually tailored meetings to address vulnerabilities and resolve issues before they have the potential to advance. Staff receive information vital to the effectiveness and efficiency of established internal controls by routinely scheduling meetings and other communication forums.

Meetings occur weekly between the Director's Office and the Department's Executive Team members. These Executive Team meetings discuss all operational and programmatic matters, with a focus on those actions that are specific to the achievement of critical mission objectives. HR and Business Services management hold bi-weekly Administration meetings to discuss key administrative processes, process improvements, and provide status updates. Information is then disseminated to employees

through group staff meetings, on an individual basis as needed, and during new employee onboarding.

## **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 Department of Industrial Relations monitoring practices are implemented and functioning. The responsibilities as the executive monitoring sponsor(s) have been given to: Andrew Collada, Chief of Administration; Dominic Forrest, Chief, Labor Enforcement Task Force; Mathew Raute, Chief Auditor; and Jasmine Wise, Risk Manager.

Executive management, together with their program managers, are charged with reviewing and analyzing their program areas and business processes to identify potential issues that may impact their ability to carry out the department's mission. Identified risks are reported to the DIR Director and Chief Deputy Director via bi-weekly one on one meetings with each executive.

DIR is also establishing an Enterprise Risk Management (ERM) Unit to promote the consistent use of risk management tools to build a more risk-aware culture. ERM will lead the department's process to identify, analyze, monitor, and mitigate key risks. With an established ERM function, DIR will be able to identify vulnerabilities and assign tasks to the appropriate parties in order to either eliminate or mitigate the risks identified.

Additionally, the Internal Audit Unit develops audit reports which assist the department in developing internal controls. The Chief Auditor also monitors the ongoing status of external audit findings and Corrective Action Plans.

DIR is continually implementing and documenting the ongoing monitoring processes as outlined in the monitoring requirements of California Government Code sections 13400-13407. These processes include reviews, evaluations, and improvements to DIR's systems of controls and monitoring.

## **RISK ASSESSMENT PROCESS**

The following personnel were involved in the Department of Industrial Relations risk assessment process: executive management, middle management, front line management, and staff.

The following methods were used to identify risks: brainstorming meetings, ongoing monitoring activities, audit/review results, questionnaires, and consideration of potential fraud.

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

## **RISKS AND CONTROLS**

### **Risk: Staff—Recruitment, Retention, Staffing Level**

DIR currently has an above average vacancy rate in nearly all divisions. From January 2020 through March 2021, DIR lost all exam and hiring authority. This led to a significant delay in recruitment and resulted in a high turnover rate at all levels of the department. These vacancies have also caused staff to spend additional time on administrative tasks, which have resulted in significant backlogs or not

being able to meet workload requirements. With hiring and exam authority restored in early 2021, DIR Human Resources is working through a large backlog of vacancies while being understaffed themselves.

**Control: A - Reduce vacancy rate across enterprise**

DIR will develop an agency wide plan to reduce the vacancies. The plan will include steps to reduce vacancies at an enterprise level, as well as specific strategies for individual divisions.

**Control: B - Make hiring process more efficient to allow department to be more competitive in talent acquisition**

DIR will contract with a consultant to conduct an assessment of current hiring processes to improve timeliness, efficiency, and ensure DIR stays in compliance with merit based hiring process.

**Risk: Organizational Structure**

With the high number of acting assignments and vacant positions, department wide communication and coordination have posed significant challenges and proven to be insufficient. Normal communication channels among units could also be improved. Branch liaisons have been vacant and with extended telework, internal phone lines are not always staffed. In addition, units with high vacancies are either non-responsive to emails, don't respond timely, and/or provide incorrect information. This had led to each unit/division operating in a silo and not knowing who to contact for assistance.

**Control: A - Develop knowledge transfer strategies**

DIR will redesign the departmental intranet to improve DIR team member usability by improving access to current information and adding tools needed to adequately perform job duties for both staff and management.

**Control: B - Safely transition staff to a hybrid work model**

DIR will develop both a short term and long term plan for transitioning staff safely back to the office. This plan will include ensuring safety measures are in place and realistic expectations are set for the duration and frequency of staff's time spent in the office. Once staff are in the office, the usage and coverage of generic phone lines and email boxes will be reviewed as necessary.

**Control: C - Develop Training Toolkit**

DIR will develop a Training Toolkit for best practices on performance assessment, management expectations, and frequency of meetings with staff for managers and supervisors. The Training Toolkit will ensure consistent expectations are being set for all DIR staff.

**Risk: Workplace Environment**

DIR has been inconsistent in holding team members accountable and is overall resistant to change. In addition, consequences for certain behaviors are not clear, which can make it difficult for management



to follow the progressive discipline path consistently. This historical lack of oversight, failure to address issues proactively, and perceived inaction of management has negatively impacted the culture of DIR and ultimately created an environment that does not reinforce DIR's core values.

**Control: A - Establish a mechanism to ensure team members can report policy violations without fear of reprisal**

DIR will develop an internal whistleblower policy to encourage and enable employees and others to raise serious concerns internally, so that DIR can address and correct improper activity.

**Control: B - Investigate and address workplace complaints timely**

DIR will ensure EEO complaints and investigations are given fair and timely consideration as well as bullying, merit, and contract complaints.

**Control: C - Develop training policy and annual training plan**

DIR will develop a training policy and an annual training plan. The implementation of a DIR training plan will address workload and work quality issues, plan for disruption to services, improve work readiness that require technical education, increase training opportunities across the divisions, and cultivate an inclusive and respectful workplace.

**Risk: Staff—Key Person Dependence, Workforce Planning**

DIR often relies on subject matter experts that do not always have suitable backups. High levels of vacancies have caused workload issues, staff burn out, disruption to services, reduced readiness for work on assignments that require technical education, and work quality issues. In addition, DIR has been inconsistent in training new and existing staff at both the management and staff levels.

**Control: A - Develop workforce plan: recruitment, selection and hiring plan**

DIR will develop an annual exam plan, recruitment strategies, and best practices for hiring with implementation of the DIR Workforce Plan to improve recruitment, streamline selection processes, and detail hiring objectives.

**Control: B - Develop a robust and standardized onboarding program for new team members**

DIR will automate employee onboarding steps and processes. DIR will also develop a standardized New Employee Orientation training program. The automation and standardization will include developing and refining current processes for a robust onboarding program for new employees.

**Control: C - Develop and Implement retention strategies**

DIR will implement stay and exit surveys to obtain feedback on why employees decide to stay or leave the agency. Based on the survey feedback received, DIR will then develop and implement retention strategies.

### **Risk: Oversight, Monitoring, Internal Control Systems**

Many units within DIR either do not have written processes, or their processes are ineffective due to being inconsistent or unclear. With the ever changing environment, many procedures are not up to date and do not reflect current laws. For the processes and procedures that are in place, management is inconsistent in following the approved standards.

#### **Control: A - Develop and document operating controls**

DIR will conduct an assessment to determine which processes lack sufficient operating controls and prioritize the documentation of the controls.

#### **Control: B - Develop and or update desk procedures**

DIR will conduct an assessment to determine which processes are utilizing out dated desk procedures and prioritize the development and regular maintenance of up-to-date manuals.

### **CONCLUSION**

The Department of Industrial Relations 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.

**Katie Hagen, 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