

January 02, 2020

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

Dear Ms. Julie Su,

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, 2019.

Should you have any questions please contact Greg Edwards, Chief Financial Officer, at (916) 928-3197, gedwards@dir.ca.gov.

GOVERNANCE

Mission and Strategic Plan

The Mission of the Department of Industrial Relations is to protect the workforce in California, improve working conditions, and advance opportunities for profitable employment.

The Strategic Goals & Objectives include: enforcing workers' compensation insurance laws; adjudicating workers' compensation claims; working to prevent industrial injuries and deaths; promulgating regulations and enforces laws relating to wages, hours, and conditions of employment, promoting apprenticeship and other on-the-job training; and analyzing and disseminating statistics which measure the condition of labor in the state.

As reflected in the Governor's Budget, these objectives are accomplished through the following entities and/or programs:

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

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 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: issuing an annual report on the state of the workers' compensation system, including recommendations for administrative or legislative modifications which would improve the operation of the system; conducting specified surveys and evaluations required by law, and issuing reports as its deems necessary; and conducting continuing examination of the workers' compensation system and the state's activities to prevent industrial injuries and occupational diseases, including making recommendations on how to improve the workers' compensation and health and safety program.

DIVISION OF OCCUPATIONAL SAFETY AND HEALTH

The objectives of this program include the promotion and enforcement of measures to 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. DOSH enforces occupational safety and health standards, investigates the causes of occupational deaths and injuries, and helps employers to maintain safe and healthful working conditions. DOSH conducts inspections of, and issues permits to operate, 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, DOSH 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.

These objectives are accomplished by the coordinated efforts of the Division of Occupational Safety and Health (DOSH), the Occupational Safety and Health Standards Board (Standards Board), and the Occupational Safety and Health Appeals Board (Cal/OSHA Appeals Board).

DIVISION OF LABOR STANDARDS ENFORCEMENT

The objectives of this program include: (1) interpretation and enforcement of 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 (as applicable); (2) determination and collection of unpaid wages; (3) the licensing of farm labor contractors, industrial homework firms, and talent agencies; the certification of studio teachers; the registration of garment manufacturers, car washing and polishing businesses, and entities and individuals using minors in door-to-door sales; and permitting for both the employment of minors in the entertainment industry and the individuals representing or providing services to minors in the entertainment industry; (4) 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, the licensing of specific industries, and the payment of wages without required deductions; (5) under the administrative direction of the Director's Office,

vigorous and targeted enforcement in partnership with state and federal agencies against unscrupulous businesses participating in the "underground economy" and administration of the prevailing wage program, to determine and publish prevailing wage rates for public works projects; (6) enforcement of apprenticeship related requirements relative to public works projects; and (7) management of the Electrician Certification Program that tests for the minimum standards for competency and training for electricians in California.

DIVISION OF APPRENTICESHIP STANDARDS

The objectives of this program are to promote, develop, and expand on-the-job training and apprenticeship programs and to provide consultation services to program sponsors. The Division's goal is to match the needs of workers with those of employers, and to strengthen the apprenticeship alliance among industry, labor, education and government for recruiting workers and teaching the skills they and their employers need. The Division 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. The California Apprenticeship Council issues regulations to carry out the intent of the state apprenticeship law and sets the general policy under which this program operates.

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.

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.

Control Environment

DIR is overseen by a Director, whose position has been vacant for over 1 ½ years. The highest level executive is currently the Chief Deputy Director. The core Executive Team is comprised of a Chief of Administration, Chief Financial Officer, Chief Information Officer, Chief of Human Resources, and Division Chiefs / Executive Officers of all Divisions, Boards, and Commissions which comprise the Department of Industrial Relations.

Organizational charts, departmental policies, operational protocols, and unit/function desk procedures comprise the framework of the control system's documentation. Components of this framework are reviewed and revised on a periodic basis.

Recently revised procedures help to ensure merit-based hiring at all levels of the organization, and

increased resources have been devoted to ensuring that departmental policies related to bullying, workplace violence, discrimination, sexual harassment, and ethics are upheld, and that complaints regarding inappropriate behavior are investigated on a timely basis. A dedicated Civil Rights Office has been established, and clarification has been provided to all staff regarding their rights and the steps to take to file complaints directly with the Civil Rights Officer, and/or other Human Resource staff. Information regarding how to file a Whistleblower complaint are posted in every office.

Periodic reviews are undertaken to help ensure desk manuals and procedures are current.

All supervisors and managers are required to undergo biennial refresher training, facilitated by internal tracking that sends reminders to staff and notifications to their supervisors if training is not taken by the scheduled due date. Staff who do not comply are subject to discipline. Additionally, the requirement that all supervisors and managers administer annual performance appraisals has been communicated to staff, with an expectation that all appraisals needed will be complete by March 2020.

With respect to staff development, one of the controls identified by this report is that each Division Chief shall require their managers to submit Individual Development Plans (IDP) for all employees to the Chief of HR and the Chief of Administration by June 30, 2020. The Chief of Administration shall provide a summary report denoting the degree of compliance for each division to the Director's Office by September 1, 2020.

With respect to staff recruitment, and as required by the Secretary of the Labor Workforce and Development Agency (LWDA), an interdisciplinary team will work with the Chief of Administration to develop goals, objectives, performance measures, and an overall strategy and time line for filling departmental vacancies. A status update will be provided to the Director's Office and the Secretary of the Labor Workforce & Development Agency by April 30, 2020.

Information and Communication

With respect to financial decision making, all expenditures are monitored and tracked by fund against appropriated amounts, and internal budget allocations are provided to each division, special function, and grant manager. Monthly expenditure reports and revenue projections are provided to the Chief Financial Officer and the Director's Office for all programs, and responsible parties receive that same information specific to their program area. Periodic meetings are held with division staff to provide technical assistance and oversight. Periodic financial management reports are also provided to the Labor Workforce & Development Agency.

Increased resources have been added to help strengthen ongoing monitoring efforts of expenditures and revenue to help ensure that risk is minimized, and internal delegated authority is reviewed on an annual basis. Periodic memorandums are distributed to all staff regarding the Whistleblower program which encourage staff to utilize this process to report waste, fraud, or abuse. The Chief Financial Officer meets on a rotational basis with line managers and staff engaged in financial monitoring to help reinforce the principles of "reporting early and often" regarding any matter of concern. Specific Fi\$Cal-driven risks are memorialized elsewhere in this document in the pages that follow.

Meetings occur at least monthly between the Director's Office and Division Chiefs and Executive Team members, regarding all operational and programmatic matters, with a focus on those actions that are specific to the achievement of critical mission objectives; managers and staff from the division of

administration either participate directly in these discussions, and/or are tasked with follow up action items as needed. The Chief Deputy and the Chief Financial Officer meet weekly regarding financial, legal, programmatic, and/or cross-cutting issues.

Periodic interdisciplinary meetings occur between administrative units, and between administrative units and program management personnel to discuss key mission-based and administrative processes, process improvement, and the status updates on key tasks.

DIR submits annual reports to the Legislature regarding programmatic activity for all major divisions. These reports are reviewed by the Budget Office, the Chief Financial Officer, the Director's Office, and the Labor Workforce & Development Agency before external distribution, and can serve as a tool to have additional vertical and horizontal communication across the department.

In addition to annual reports, the department maintains a centralized call in number, which is posted on its website, which customers and constituents can contact to ask questions and receive advice on any number of labor laws related to workers compensation, wage and hour law, prevailing wage rates, apprenticeship opportunities, workplace safety, and regulatory development. The department holds "forums" each year, some in conjunction with the Department of Employment Development Department, to educate both workers and employers on all of the above, and the Division of Apprenticeship Standards works with community colleges and various industries (health care, information technology, construction trades, among others) to inform potential participants and business partners regarding the opportunity and benefit of apprenticeship programs.

All divisions sponsor and facilitate "education and outreach" activities to increase the public's knowledge and understanding of the department's mission through media, social networks, and pamphlets produced in multiple languages.

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: Victoria Hassid, Acting Director/Chief Deputy Director; Greg Edwards, Chief Financial Officer; and Andrew Collada, Chief of Administration .

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Material Variance forms are submitted to the State Controller and the Department of Finance for each of DIR's funds as appropriate on an annual basis.

Ongoing monitoring to reduce the vulnerabilities identified by this report will be the responsibility of the DIR Executive Team and the party identified for each risk listed.

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, other/prior risk assessments, external stakeholders, and consideration of potential fraud.

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

RISKS AND CONTROLS

Risk: Staff Hiring Process

All of the DIR's operating divisions (DOSH, DWC, DLSE) and the Division of Administration have specific vacancies in classifications which exceed the departmental average vacancy rate due to higher than average attrition, positions which are hard to fill, and/or geographic factors. Sustained and/or above average vacancies may adversely affect the department's capacity to fulfill its mission, adhere to statutory deadlines, and provide adequate support business operations statewide. The implementation new hiring requirements required by Cal/HR, and an external review by Cal/HR of 100% of all hiring documents has resulted in increased vacancies department wide.

Control: A - Management Training

Cal/HR provided mandatory training to all DIR supervisors and managers in June through August 2019, which included best practices on how to interview, screen and hire candidates. Moving forward, provide new hiring managers with training on how to screen, interview and hire candidates in accordance with Cal/HR best practices. The Chief of HR, or his/her designee, shall submit a plan for training new managers and for make-up training for existing managers to the Chief of Administration by April 30, 2020. Over time, this training should: 1) enable all managers to successfully traverse the hiring process; 2) produce hiring packages which meet all Cal/HR criteria; and 3) reduce or eliminate delays in the hiring process due to incomplete and/or non-compliant hiring documents.

Control: B - Hiring & Retention Strategies

Division Chiefs shall submit hiring and/or retention strategies to the Director's Office and the Chief

of Administration for all classifications which have a vacancy rate that exceeds the departmental average as identified by the Budget Office. These strategies shall include, but should not be limited to, an examination of the pro/cons to effectively address any geographic dynamics that may be contributing to any difficulty in filling and/or retaining positions. A time line for the submittal and review of these hiring and/or retention strategies will be developed by the Chief of Administration June 30, 2020.

Control: C - Performance Management (Hiring Process, Measurement)

The Chief of HR, or his/her designee, shall develop a performance measure target for the HR personnel responsible for providing feedback to division staff upon submittal of hiring packages and/or requests for assistance.

Control: D - Performance Management (Hiring Process, Accountability)

The Chief of HR, or his/her designee, shall submit management reports to the Director's Office and the Chief of Administration by April 30, 2020, and at the end of each quarter thereafter, which show: 1) new hires; and 2) the lag time between the date a position became vacant and when hiring paperwork was submitted to HR by division management.

Risk: Workforce and Succession Planning

DIR relies heavily upon experienced leadership and knowledgeable, expert staff. The well documented "aging workforce" problem makes the DIR vulnerable. The heavy reliance upon long tenured, experienced and knowledgeable staff, coupled with the likelihood of retirements over the next 36 months in key technical and managerial positions, will create a gap in DIR's institutional knowledge base and experienced managerial talent.

Control: A - Workforce Planning

As required by the Secretary of the Labor Workforce and Development Agency (LWDA), an interdisciplinary team will work with the Chief of Administration to develop goals, objectives, performance measures, and an overall strategy and time line for addressing this issue. A status update will be provided to the Director's Office and the Secretary of the Labor Workforce & Development Agency by April 30, 2020.

Risk: Staff Training

The department lacks a standard new employee training and onboarding protocol and/or practice. Moreover, Government Code and Cal/HR requirements to provide annual appraisals to all employees have not been upheld.

With proper implementation of training/onboarding, new employees are better able to progress and become successful and productive employees. Ongoing feedback to staff regarding their performance is also important to continue efficient and effective operations within the department.

Management and leadership training and development are important for teams to perform at their potential and highest levels. Leadership development has also been shown to reduce turnover and increase overall efficiency and productivity.

Control: A - Initial Staff Training

Establish a department-wide onboarding program for use by all divisions and units in order to provide a consistent and comprehensive program to improve effectiveness and the timely onboarding of new staff.

Control: B - Increased Monitoring of Training Plans

Each Division Chief shall require their managers to submit Individual Development Plans (IDP) for all employees to the Chief of HR and the Chief of Administration by June 30, 2020. The Chief of Administration shall provide a summary report denoting the degree of compliance for each division to the Director's Office by September 1, 2020.

Risk: Budget Adjustments to Align with Fi\$Cal

Basic functionality in Fi\$Cal is suboptimal, currently failing to replicate the utility and functionality of the CALSTARS system that it replaced. Historical, standard report functionality has not been mirrored. Data extraction is not intuitive, or is limited, resulting in increased time spent in developing spreadsheet-centric ad hoc reports. This lack of quality, timely information creates inefficiency, and increases either the financial risk of insolvency, or the operational risk of lost opportunity associated with an inability to maximize available dollars in a given fiscal year. External restrictions (even on delegated authority to utilize existing departmental funds) to develop interfaces between Fi\$cal and departmental legacy, and/or blended case management systems, and/or other business tools, to streamline or automate work, exacerbate this condition.

Control: A - Technical Adjustments to Align with Fi\$Cal Restrictions

Restructure the 2021/22 departmental budget to eliminate distributed administration; theoretically, this will allow for system generated budget management reports for the centralized Division of Administration \$80M+ budget. The Budget Officer will work with the Department of Finance and the DIR Accounting Office to explore and implement this change during the 2021/22 budget development cycle. This will create the capacity to generate budget management reports for the Admin division, and reduce the technical adjustments that are needed, thereby streamlining the record-keeping for all federal grant activity. This action will also streamline the annual state year end closing process.

Control: B - Ongoing Fi\$cal Implementation

The Accounting Officer will continue to work with the Department of Finance, Fi\$Cal, the Fiscal Systems Consulting Unit (FSCU), to resolve outstanding system "tickets", and to provide feedback regarding necessary system changes to reduce reconciliation errors.

Control: C - Fi\$Cal, Ongoing Process Improvement

The Chief Financial Officer will reorganize work effort to identify and correct processing errors early in the requisition process, and further develop policies and procedures to help ensure synergistic management of the budget, procurement, accounting, and asset management functions of the department. A time line for this plan will be submitted to the Director's Office and the Chief of Administration by April 30, 2020.

Risk: Increased Executive Oversight

The department's strategic plan has not been reviewed or revised for many years. As a result, in general, baseline measurements have not been formally acknowledged, and annual performance goals, targets, and measurements have not been identified. Additionally, while the department is making progress toward an ongoing monitoring and internal control system that effectively engages all levels of management in all divisions, full participation has not yet been reached. Moreover, The department has not implemented an Information Technology Governance Policy framework. This results in an overall lack of planning and misplaced prioritization of IT projects, and creates increased financial risk due to a lack of integrated Executive oversight of the of the development of department's annual Information Technology Infrastructure Plan.

Control: A - Identify Baseline Measures

DIR Executive Management will participate in a facilitated discussion regarding how best to develop baseline measurements for key mission deliverables by December 31, 2020.

Control: B - Provide SLAA Training to Exeutive Management

DIR Executive Management and Division leadership teams will participate in a training facilitated by the Department of Finance, Office of State Audits & Evaluation. An update on the timing of this training shall be provided to the Secretary of the Labor Workforce and Development Agency by April 30, 2020.

Control: C - Establish an IT Governance Committee

The Department shall establish an IT Governance Committee to provide strategic direction for the organization, ensure objectives are met, set the risk standards or profile, and delegate resources responsibly. The Committee shall consist of the Director, the Chief Deputy Director, the Chief Information Officer, the Chief of Administration, the Chief Financial Officer, the Administrative Director of the Division of Workers Compensation, the Chief of Cal/OSHA, and the Labor Commissioner, or their respective designees.

Risk: Strenghten Internal Controls

Whistleblower complaints, external audits, and internal reviews have revealed a lack of compliance with state rules and policies, and a need to strengthen the department's internal review processes to help identify risks as required by Government Code 13400-13407.

DIR needs to strengthen its internal controls, improve its overall compliance with state rules and procedures, and conduct a systematic review and update of departmental policies.

Control: A - Establish Internal Audit Unit

The Department has positions for an internal audit unit but has not yet established the unit. The unit would help bring the Department into compliance with GC 13400-13407, and provide much needed internal capacity to objectively monitor operations and increase accountability, measure statewide performance of all divisions, and promptly resolve the findings of audits and other reviews (Cal HR, BSA, Finance, Dept. of Technology etc.).

The Department will re-establish and recruit for an Internal Audit Chief and Internal Audit unit, and establish an Audit Charter and an initial Audit Plan. An update on the progress of achieving this goal will be provided by the Chief Deputy Director to the Secretary of the Labor and Workforce Development Agency by December 30, 2020.

Control: B - Conduct Reviews of Decentralized Accounting Functions

While the DIR has a centralized accounting function, certain divisions within the department continue to perform some separate accounting operations; moreover, some of these separate operations are further decentralized within particular divisions. This partially decentralized accounting organization could lead to a lack of organizational accountability and inefficient operations.

In the absence of an Internal Audit Unit, the DIR Administrative Management team will consult with the Department of Finance, Office of State Audits and Evaluations (OSEA) to initiate a review of the separate division accounting operations to obtain recommendations regarding any improvements needed in the division decentralized structure and oversight, including but not limited to, the advisability of centralizing oversight and/or functionality under the Division of Administration.

Control: C - Conduct Internal Control Review of Business Management & Accounting

An internal review of Business Management and Accounting controls was completed during the last quarter of 2019. The review identified a need for revision and/or development of procedures that coincided with the department's migration onto Fi\$Cal in the 2018/19 fiscal year, as well as some Business Management controls which needed to be reinstated.

The Administrative Management team will provide a status update to the Director's Office and the Chief of Administration by June 30, 2020, which will include, but will not be limited to, a listing of all outstanding items still in need of correction, and the estimated time of completion.

Control: D - Monitor and Report on Completion of all External HR Audit Findings

Audits by the State Auditor, Cal/HR, and the State Controller's Office have identified instances of non-compliance.

The Chief of HR, or his/her designee, shall provide an update to the Director and Chief of Administration on the status of all outstanding external audit findings by April 30, 2020, and for each quarter thereafter until all outstanding findings are addressed.

Control: E - Develop a Schedule to Review and Update all HR Polices and Procedures

The department has not reviewed, revised, and/or systematically developed new polices as needed on an annual basis.

The Chief of HR, and/or his/her designee, will develop a schedule to review all DIR Human Resources policies and establish plan to review, develop and/or revise all other departmental policies and communicate them to managers and staff by December 2020.

Risk: Facility Planning & Maintenance

Many unmet space needs are a result of a lack of division planning. As the DIR continues to increase its workforce, adequate space is becoming an issue in many office locations.

Control: A - Integrate Facility Assessment Analysis into the Budget Cycle

The Administrative Management Team will continue work with DIR divisions to evaluate their emerging needs in the light of ongoing program growth and expiring leases, some of which cannot be renewed in the existing space. Division management shall submit their plans for program growth for the next three fiscal years, by geographic location, to the Chief of Administration and the Chief Financial Officer by June 30, 2020.

Control: B - Continue Strategic Discusisons with DGS regarding Space Needs

DIR will continue to work with the Department of General Services to secure adequate space in public and privately owned building for the additional staff hired by divisions and administrative services functions, and strategically plan for physical resource needs.

Control: C - Continue Strategic Discussions with DGS Regarding Project Needs

DIR will continue to identify unmet deferred maintenance, fire, life, safety, and security project needs in state buildings that should be addressed by the Department of General Services.

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.

Victoria Hassid, Acting Director/Chief Deputy 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