

December 20, 2019

Keely Martin Bosler, Director  
California Department of Finance  
915 L Street  
Sacramento, CA 95814

Dear Ms. Keely Martin Bosler,

In accordance with the State Leadership Accountability Act (Leadership Accountability), the Fair Political Practices Commission 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 Loressa Hon, Chief of Administration, at (916) 322-7578, LHon@fppc.ca.gov.

## **GOVERNANCE**

### **Mission and Strategic Plan**

The Fair Political Practices Commission (FPPC) was created by the Political Reform Act of 1974 (Act), a ballot initiative passed by California voters. The mission of the Fair Political Practices Commission is to promote the integrity of representative state and local government in California through fair, impartial interpretation and enforcement of political campaign, lobbying, and conflict of interest laws. To meet its responsibilities under the Act, the Commission adopts and amends regulations. It also develops required forms, prepares manuals and instructions, aids agencies and public officials with record keeping and reporting, and maintains a central file of statements of economic interests for certain state and local officials. The Commission staff also investigates alleged violations of the Political Reform Act, imposes penalties when appropriate, and assists state and local agencies in the development and enforcement of conflict-of-interest codes. In an effort to reduce violations, the FPPC educates the public and public officials on the requirements of the Act and provides written and oral advice to public agencies and officials and conducts seminars and training sessions.

The Fair Political Practices Commission has primary responsibility for the impartial and effective administration of the Political Reform Act. The mission of the Act is to serve as the legal bedrock of governmental ethics in California. It regulates:

- Campaign Finance
- Financial Conflicts of Interest by Public Officials
- Lobbyist Registration and Reporting
- Post-Governmental Employment
- Political Mass Mailings at Public Expense
- Gifts and Honoraria given to Public Officials and Candidates

The Commission and its staff have a strong focus on integrity and accountability. Management and staff have a strong work ethic and strongly believe in the mission of the agency.

FPPC's principle areas of responsibility are described as follows:

Legal Division is headed by the General Counsel and is comprised of staff attorneys, Political Reform Consultants and support staff.

- Representing the Commission in Court - Unlike most state agencies, which are represented in court by the Attorney General, the Commission is specifically authorized to be represented by its own lawyers. This is only one of the many provision of the Act designed to ensure the independence of the Commission. However, in instances where the staff's time constraints or the litigation costs may be too burdensome, the Commission may request representation by the Attorney General's office. The Act provides that, upon request, the Attorney General must provide legal advice and representation without charge to the Commission. In these cases, the Commission's staff attorneys provide expertise and ensure that the representation conforms to Commission policy.
- Advice - The Legal Division staff receives a large number of requests via email for advice from state and local officials, candidates and campaign committees, and lobbyists. Many of these questions concern conflicts of interests – officials asking whether they must disqualify themselves from certain decisions. Staff attorneys and Political Reform Consultants also assist the External Affairs and Education Division in providing informal advice in response to telephone requests when the questions are relatively straightforward. In response to some requests, the legal staff can give written advice, which are also known as Advice Letters.
- Regulations - Drafting regulations to implement the campaign, lobbying, and conflict of interest provisions of the Act is an important part of the Legal Division's work. The FPPC regulations must comply with the Administrative Procedure Act, which provides procedures and standards for state agencies to follow in adopting regulations.
- Legislation - The Legal Division is involved in drafting Commission sponsored legislation and provides analysis on other bills that impact the Act.
- Developing State and Local Conflict of Interest Codes - The Legal Division Political Reform Consultants prepare recommendations to the Executive Director or Commission Counsel for code adoptions and amendments for all state and multi-county agencies. The Political Reform Consultants also serve as a resource to all government agencies as they work to develop their own conflict of interest codes via webinars and training materials.
- Training, Assistance and Public Outreach - The Legal Division Political Reform Consultants prepare and conduct extensive Training and Outreach, including workshops and webinars, to help interested parties better understand their obligations under the Act. The division develops the Forms and Manuals used in campaign and personal financial disclosure, and it provides Telephone Advice for FPPC filers, their staff and filing officers throughout the state.
- Public Affairs and Media Relations -The Legal Division Political Reform Consultants provide the public and media with timely and available information on actions, decisions, events and policies of the Commission. The Media Relations, Public Affairs and Communications office helps educate the public and media on the FPPC'S role and the spirit of the Political Reform Act. The office also provides media availability of FPPC leadership and subject matter experts.

Enforcement Division is a team of lawyers, investigators, auditors, political reform consultants and support staff that investigate and administratively prosecute suspected violations of the Political Reform Act.

- **Enforcement Process** - The Enforcement Division analyzes and processes over 1,500 complaints and referrals per year about potential violations of the Act. Complaints and referrals are received from citizens, other government agencies, and the media. The Enforcement Division also investigates on its own initiative. The Division also operates a campaign audit program of both mandatory and discretionary audits. A matter will be fully investigated if there is sufficient information to believe that a violation of the Act has occurred.
- **Administrative Enforcement Case Resolutions** - A complaint can be resolved in several ways depending on the strength of the evidence, the particular facts, and the amount of public harm involved. If there is insufficient evidence to prosecute, a case may be closed with a letter finding no violation or an advisory letter. If the seriousness of the offense and public harm are low, a warning letter may be issued identifying a violation of the Act but concluding a monetary fine is not warranted. Finally, if the case merits pursuit of a fine, the Enforcement Division will prosecute the violators and may seek penalties of up to \$5,000 per violation, which must be approved by the Commissioners.
- **Collaboration** - During an investigation the Enforcement Division may uncover evidence of criminal misconduct, or an outside agency may uncover evidence of local violations of the Act. It is common in these circumstances for each agency to notify the other and collaboratively enforce California law. In addition, the FPPC also assists district attorneys and authorized city attorneys in analyzing, investigation and prosecuting local violations of the Act.

Administration and Technology Division oversees personnel functions, budgeting, accounting, business services, print services, and employee-employer relations services. The Division also is in charge of the information technology, which plays a crucial role in fulfilling the Commission's goal to increase transparency through the technology unit.

- **Personnel** - Personnel functions include recruitment, hiring, position classifications and reclassifications, attendance and payroll, training, grievances and punitive action. The Division also handles equal employment opportunity, labor relations and reasonable accommodation and ergonomic issues.
- **Budgeting** - Budgeting functions include the development, management and revision of the Commission's budget. The Division also accounts for all funds expended by the Commission.
- **Business Services** - Business services include building and space management, communications, contracts and procurement, equipment and supplies, maintenance, and travel.
- **Processing Statements of Economic Interests** - Form 700. The Administration Division administers and acts as filing officer for over 25,000 Statements of Economic Interests from all levels of government across California.

## Control Environment

The Fair Political Practices Commission is a five-member independent, non-partisan commission that has primary responsibility for the impartial and effective administration of the Political Reform Act. The Act regulates campaign financing, conflicts of interest, lobbying, and governmental ethics. The Commission's objectives are to ensure that public officials act in a fair and unbiased manner in the governmental decision-making process, to promote transparency in government, and to foster public trust in the political system.

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The Commission conducts a monthly hearings, the FPPC meets to hear and vote on enforcement matters, adopts regulations, discuss legislative and litigation reports, and update the public about what is going on at the Commission. The hearings are open to the public and time is allotted for public comment. There are several goals the Commission is promoting to help foster the public's trust in our political system. Foremost, the Commission continues to diligently prosecute serious violations of the law, ensuring that officials operate in a way that does not betray the public's confidence. Second, the Commission will increase transparency by utilizing technology to provide "smart disclosure," giving more people easy access to vital information about their public officials and campaign financing. Finally, the Commission will concentrate on adopting meaningful reforms while maintaining the highest ethical standards. The objective is to streamline the rules to reduce redundancy, eliminate loopholes and improve accountability with more timely and accurate disclosures.

In June 2018, the Commission amended regulation § 18308, regarding Commission Governance, to ensure that the accountability and authority for governance and management of the FPPC is clearly stated, the Commission has set forth regulations to specify the roles of the Commission, and its delegation of powers and duties to the Chair or the Executive Director. The amendments are intended to assist the Commission in its oversight responsibilities, to ensure the FPPC's compliance with all applicable laws governing the operations of the agency, and its employees / Commissioners, including but not limited to the Bagley-Keene Open Meeting Act, the Public Records Act, the Administrative Procedure Act, and State laws protecting employees from unlawful workplace practices, discrimination, etc. The amendments also require periodic reports from the Executive Director concerning the status of the FPPC's budget, financial control and reporting system, and the Commission's compliance with all laws governing the Agency. The Commission ensures the proper conduct and governance of the Agency. The Commission strives to achieve a governing style that encourages effective operations, frank and collegial discussions among members of the Commission, the staff and the public, and fairness to persons whose compliance with the Act is called into question.

Additionally, regulation §18308.1 establishes two committees: the Law and Policy Committee and the Budget and Personnel Committee. Each advisory committee is responsible for reviewing and recommending to the full Commission those policies, goals, regulations and other action items that are pertinent to its subject matter jurisdiction. Each committee reports regularly on its activities and anticipated activities discussions and deliberations of significant issues and presents recommendations with any supporting documentation to the full Commission, to promote transparency and ensure that all Commission members and the public are adequately informed. Each committee operates to assist the Commission in evaluating and considering the adoption of adopting key policies, goals, regulations and other action items, and is not intended to direct the daily operations of management of the Commission.

## **Information and Communication**

### Internal Communication

FPPC plans to communicate monitoring activities to key members of management through verbal and written communication. Every division at FPPC will maintain monitoring documentation to meet business needs. Recipients of monitoring reports are at all levels of management with the emphasis placed on monitoring and control oversight at the lowest management level possible. The frequency and type of reporting will depend on the nature of operations, priorities, and the organization's needs.

## External Communication

The FPPC conducts a variety of meetings that ranges from the Commission's monthly hearing, opportunities for public comment, and trainings for the regulated community. Public participation is encouraged.

At its monthly meeting, the FPPC meets to hear and vote on enforcement matters, adopt regulations, discuss legislative and litigation reports, and update the public about what is going on at the Commission. The hearings are open to the public and time is allotted for public comment.

Committee meetings occur as necessary, as dictated by the committee chair. Whenever possible, committee meetings will be noticed two days prior and the public may listen to deliberations.

The FPPC updates its regulations, manuals and forms to address changing circumstances in California on a regular basis. When these updates happen, the FPPC may hold an Interested Persons Meeting. These meetings allow the public to provide feedback and recommendations on the FPPC rulemaking process.

## **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 Fair Political Practices Commission monitoring practices are implemented and functioning. The responsibilities as the executive monitoring sponsor(s) have been given to: Loressa Hon, Chief of Administration; and Jue Wang, Administration Manager.

The FPPC's Administration Division will coordinate all monitoring activities and is integrating formal ongoing monitoring activities into existing practices used to manage its resources and operations, such as conducting separate evaluations and regularly meeting with the executive management team on a monthly basis during strategic planning meetings to address and document all results and/or to develop corrective action plan to address results and outcomes. The frequency of monitoring activities will be evaluated on a case by case basis, determined by factors such as risk priority, critical budget and project deadlines, timelines, urgency, staff experience, subject matter difficulty, and uniqueness.

FPPC has established a bi-annual internal control (IC) review led by the executive management team that was designed to provide reasonable assurance on the achievement of the entity's objectives with regard to the reliability of financial reporting, effectiveness and efficiency of operations, and compliance with applicable laws and regulations. IC over the safeguarding of assets against unauthorized acquisition, use, or disposition may include controls related to financial reporting and operations objectives. Through a risk assessment and evaluation review, executive management team will discuss the timeframe for deficiencies to be remedied and will work to remedy any issues identified. The FPPC has a policy that all deficiencies will be mitigated as soon as possible.

The Fair Political Practices Commission is in the process of 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 the Fair Political Practices Commission systems of controls and monitoring.

## RISK ASSESSMENT PROCESS

The following personnel were involved in the Fair Political Practices Commission risk assessment process: executive management, middle management, and front line management.

The following methods were used to identify risks: brainstorming meetings, ongoing monitoring activities, external stakeholders, consideration of potential fraud, and performance metrics.

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.

Due to the nature of the Commission and its mission of promoting integrity in government, the ongoing evaluation of the integrity of its systems and controls is of utmost importance. Beginning at 2017, the executive management team of the Commission has implemented a monthly meeting on Strategic Planning, which covers the Commission's objectives, mission and priorities. Risk assessments were prepared, evaluated and revised as needed basis. The Commission is aware that management is responsible for establishing and maintaining a system of internal controls within our agency. The agency meets the objectives of internal control, which are to provide reasonable, but not absolute, assurance that: Assets are safeguarded against loss from unauthorized use or disposition. Transactions are executed in accordance with management's authorization and recorded properly to permit the preparation of reliable financial statements. Financial operations are conducted in accordance with policies and procedures established in the State Administrative Manual, and certain other state laws and regulations, as well as the Commission's policies and procedures. There is a basic foundation upon which a structure of public accountability must be built in order to minimize fraud, errors, abuse, and waste of government funds. System requirements are communicated to employees. FPPC has a plan of organization that provides segregation of duties appropriate for proper safeguarding of FPPC assets. FPPC has a plan that limits access to state agency assets to authorized personnel who require these assets in the performance of their assigned duties. Personnel have been trained, commensurate with their responsibilities. Technology infrastructure supports the completeness, accuracy, and validity of information processed.

A collaboration effort through executive management team resulted in the selection of risks and controls to test. The result of the control testing were communicated to all senior management for their review and feedback. The review identified and evaluated potential risks to the Commission and tests the critical controls necessary to mitigate the threats identified during the risk assessment process. In addition, executive management held a series of meetings to discuss the 2019 report. The discussion focused on the risks and controls to mitigate these risks in the Commission's current environment. A consensus was reached that the significant Commission wide risks and corresponding controls were properly identified and articulated. A matrix identifying threats to the agency and controls was developed by the Administration Division in coordination with key personnel from each division and with executive management meeting to provide input and finalize recommendations. The current 2019 report was spearheaded by the Administration Division with a review of the Commission's control environment and critical mission.

## RISKS AND CONTROLS

### Risk: Commission Governance

Regulations regarding governance of the Commission may lack adequate definition and specificity of roles and responsibilities, and coordination between Commission and staff. This risks inefficiencies in duplicative work, at a cost to the Commission both in dollars and resources.

#### Control: A

Amendments to the governance regulations are currently being considered by the Commission. An aim of the amendments is to establish a more collaborative approach with the divisions and lead to less duplicative efforts by staff and Commission.

### Risk: Ongoing Workforce Development

The Commission relies on specific individuals with significant knowledge and expertise in key areas which makes the department vulnerable if they leave, retire, or are temporarily absent.

1. Small agency with limited positions create challenges on cross-training and backups.
2. Middle management employees that had retired during this calendar year with suitable replacements but less expertise.
3. Staff expert is relied upon exclusively without any backup to assist in his/her absence.

#### Control: A

Continue to develop and implement a comprehensive workforce development plan to prepare staff to fill key positions.

- Identify gaps in the workforce development plan and develop solutions to address the gaps.
- Continue to provide Development Training for multiple levels of staff.
- Continually assess employee demographic information and career plans to anticipate staff attrition.
- Discuss topics monthly at strategic planning meetings.

#### Control: B

Formalize and implement a comprehensive workforce development plan. The components of the plan should include:

- Recruitment and hiring strategies
- Training, coaching and leadership programs
- Performance evaluations and improvement strategies

- Promotional processes

**Control: C**

Develop and maintain documentation that captures key, relevant, and/or historical information and specialized unit processes.

- Determine where information and documentation is maintained using established file structure.
- Identify and inventory information and documentation available.
- Identify information and documentation gaps.
- Develop and/or revise information and documentation to close gaps.

**Risk: Human Resources Records Requirement**

A lack of policies and procedures, that specify the documentation needed, and the required retention periods for such documents, may result from insufficient essential records that document recruitment, hiring and appointment actions. This could lead to our inability to withstand a control agency compliance review and also hinder our ability to respond to potential employee exam and/or merit-based appeals.

**Control: A**

Finalize development of departmental policy and procedures consistent with recently established records retention regulations.

**Control: B**

Provide departmental staff who have responsibility for records management with appropriate training.

**Control: C**

Inventory current records, purge outdated information, identify storage needs and obtain internal and external storage space to adequately secure documents.

**Risk: Technology Security**

Potential internal acts threatening the integrity, safety, or privacy of information.

- Staff accidentally altering important files
- Unintentional release of confidential information
- Failing to follow internal security procedures such as inappropriate password sharing or failing to lock computer
- Access levels allow users to view unauthorized information



- Inadequate process to discourage or identify unauthorized access

**Control: A**

Upgrade the Commission cybersecurity software, as well as upgrade our firewall product.

**Control: B**

Periodically sending reminder to staff and phishing email attempt to ensure compliance.

**Control: C**

In order to mitigate this risk, we have hired an assistant Information Security Officer (ISO). The assistant ISO has attended training, including the Department of Technology's security training. He is also working with our ISO to review our agency's risk assessment.

**Risk: Disclosure Act**

A lawsuit could be filed for incorrectly interpreting the law when regulations are created or amended, or for issues related to the Disclosure Act. In order to mitigate the risk, internal review is conducted which includes other divisions, past practices are applied and public opinion is solicited. Program staff also consults the FPPC's General Counsel and, as necessary, the expertise of the Attorney General's Office.

**Control: A**

The FPPC holds an Interested Person Meeting and provides an Information Page For Interested Persons Meetings and Opportunities for Public Comment. The website is intended to assist members of the public and regulated community who wish to join our Interested Persons process, or who simply wish to find up-to-date information on key policy discussions underway at the FPPC.

**CONCLUSION**

The Fair Political Practices 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.

**Thomas K. Jones, 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