

Board for Professional Engineers, Land Surveyors,
and Geologists
2019 Leadership Accountability Report

**December 30,
2019**

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Alexis Podesta, Secretary
California Business, Consumer Services and Housing Agency
915 Capitol Mall, Suite 350-A
Sacramento, CA 95814

Dear Ms. Alexis Podesta,

In accordance with the State Leadership Accountability Act (Leadership Accountability), the Board for Professional Engineers, Land Surveyors, and Geologists 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 Nancy A. Eissler, Assistant Executive Officer, at (916) 263-2241, Nancy.Eissler@dca.ca.gov.

GOVERNANCE

Mission and Strategic Plan

Mission:

We protect the public's safety and property by promoting standards for competence and integrity by licensing and regulating the Board's professions.

Vision:

A California that leads the nation in protecting the public and environment with competent and ethical professional services by the Board's licensees.

Goals and Objectives

Goal 1: Licensing

The Board provides applicants and licensees a method for providing services in California to protect consumers.

- 1.1 Develop and implement an integrated licensing and enforcement case management system.
- 1.2 Monitor and evaluate the impact of emerging technologies on the professions.

Goal 2: Applications/Examinations

The Board promotes appropriate standards so that qualified individuals may obtain licensure in order to protect the public.

- 2.1 Monitor and report annually whether national exams continue to meet California's licensing requirements.

Goal 3: Laws and Regulations

The Board ensures that statutes, regulations, policies, and procedures strengthen and support its mandate and mission.

3.1 Monitor and evaluate whether changes to legislation or regulations are needed due to emerging technologies and industry practices.

3.2 Proactively monitor and clarify as needed laws and regulations.

Goal 4: Enforcement

The Board protects the health and safety of consumers through the enforcement of the laws and regulations governing the practices of engineering, land surveying, geology, and geophysics.

4.1 Maintain complaint investigation cycle times under 180 calendar days.

4.2 Reduce formal disciplinary action process cycle times to the DCA-established time period of 540 calendar days.

4.3 Improve the technical expert consultant selection process, training, and compensation to enhance quality and quantity.

Goal 5: Outreach

The Board promotes the importance of licensing in an effort to regularly and consistently educate consumers, licensees, and stakeholders about the practice and regulation of the professions.

5.1 Communicate enforcement actions on an ongoing basis on the Board website as soon as feasible.

5.2 Maintain and expand as necessary the Board's social media presence.

5.3 Report annually to the Board the steps taken to educate university administrators and students about the importance of licensure.

Goal 6: Customer Service

The Board works to develop and maintain an efficient and effective team of professional and public leaders and staff with sufficient resources to improve the Board's provision of programs and services.

6.1 Provide Board-specific training for new and existing Board members in addition to DCA's Board Member Orientation Training.

6.2 Implement a payment system that can process all transaction types for any payments to the Board.

Control Environment

- The Board strives to achieve its strategic objectives set forth in the Strategic Plan and establishes its values through adherence to the mission and vision.
- Organizational oversight is set forth in law and includes an independent board comprised of 15

members that Board staff provide reports to at 6 annual meetings. Additional oversight is provided by our reporting Department of Consumer Affairs (Department or DCA) and Control Agencies (Business, Consumer Services & Housing Agency [BCSH], Department of Finance [DOF], Legislature, etc.).

- Organizational structure is assembled by regulatory function (i.e. licensing and enforcement) with reporting lines up, down, and across to ensure responsibilities are shared and allow those in authority to pursue business objectives.
- Documentation of the organizational structure, processes, policies, and standards that are utilized to maintain control across the organization are reported to the Department, Control Agencies, and Legislature as required.
- The Board utilizes the Department's training and planning solutions division (SOLID) to develop and maintain an efficient and effective team of professional and public leaders and staff and improve the Board's programs and services
- Accountability for the execution of internal control responsibilities is formed by law, developed through regulation, with oversight from the Legislature, Control Agencies, the Department, the independent Board and direction of the Executive program managers.

Information and Communication

- Distribution of information needed to perform control activities and to understand internal control responsibilities is delivered regularly by our reporting Department (Consumer Affairs) and Control Agencies (BCSH, DOF, Legislature, etc.).
- Channels of communication for the Board begin with the Executive Officer and extend to a staff of approximately fifty (50) full-time individuals working to achieve the Board's goals and objectives. Information is shared in a timely manner via meetings or emails as needed. All public information is shared at board meetings held 6 times annually and with all members of the public in attendance.
- Personnel within the organization understand their responsibilities for internal control through the management structure and the training and distribution of assigned functions. Ongoing unit meetings facilitated by management provide the environment and structure to report inefficiencies. Inappropriate actions can be shared through confidential communication at all times with management or Executive program managers.

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 Board for Professional Engineers, Land Surveyors, and Geologists monitoring practices are implemented and functioning. The responsibilities as the executive monitoring sponsor(s) have been given to: Richard B. Moore, PLS, Executive Officer; Nancy A. Eissler, Assistant Executive Officer; and Jeff Alameida, Administrative Services Manager.

- The risk assessment process involves the Executive Officer, Assistant Executive Officer, Managers, and the support staff. With a total staff of approximately fifty (50) full-time employees housed in a single office, an organization-wide risk assessment is an on-going process that includes 100% of the staff. Potential risks and improvements to internal controls can be raised at regular all-staff meetings, monthly manager meetings, and monthly unit

meetings or at any time via email or individual meetings.

- A risk must be documented when it meets both of the following criteria:
 - The ability of the Board to carry out its mission.
 - There is no known internal control (existing business process) in place to mitigate the risk
- Addressing and Monitoring vulnerabilities - Processes vary depending upon the type of risk control identified. Programmatic risks are assigned to the Executive Officer and Assistant Executive Officer. Unit risks are addressed by the designated manager directing each unit, in consultation with the Executive Officer and Assistant Executive Officer and appropriate control agencies.
- The Board 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 Board's systems of controls and monitoring.

RISK ASSESSMENT PROCESS

The following personnel were involved in the Board for Professional Engineers, Land Surveyors, and Geologists risk assessment process: executive management.

The following methods were used to identify risks: 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: Fi\$Cal Reports

Accurate and timely revenue and expenditure reports are not currently available from the Fi\$Cal system, and this ultimately results in DCA being unable to produce timely reconciled monthly and year-end financial statements for the Board. Specifically, the Board is unable to access timely reports and readily validate the accuracy of data postings. This results in information lags as well as in poor, and inaccurate, real-time reporting to the Board. Furthermore, reports generated from the system often track awkward reconciliation points or contain incomplete or not user-friendly data. Accurate and usable reports are needed to make prudent budget and operational decisions. Special funds often have structural funding concerns, so understanding cash balances and expenditure status is essential. Board staff, as a result, often manually track unresolved Fi\$Cal issues in hopes of providing better real time data to executive level managers. This adds significant staff time, and the manual preparation of reports outside of the system opens the Board up to a larger opportunity for making unintended errors.

Control: Fi\$Cal Reports - Elevating Issues to DCA

The Board is in communication with DCA on a regular basis to resolve open items which include posting corrections, programming concerns, and report suggestions within the system. The knowledge and expertise of DCA staff and the Board's staff regarding budgetary matters and historical reporting methods helps to partially mitigate this risk.

Control: Fi\$Cal Reports - Independently Tracking Data

The Board relies on data tracked outside of the Fi\$Cal system and regularly works with budget, accounting, and business services staff at DCA to track issues and make forecasting projections. This information is often utilized for reports and materials presented at Board meetings. Additionally, the Board request information as needed from DCA to try to identify and fix errors. The knowledge and expertise of DCA staff and the Board's staff regarding budgetary matters and historical reporting methods helps to partially mitigate this risk.

Risk: DCA Pre-Notice Regulatory Review Process

The Department of Consumer Affairs (DCA) and the Business, Consumer Services and Housing Agency (Agency) instituted a new requirement that all documents relating to regulatory (rulemaking) proposals must be reviewed and approved by them prior to the boards being able to begin the official rulemaking process required by the Government Code and associated regulations established by the Office of Administrative Law (OAL). DCA issues licenses, certificates, registrations, and permits in over 250 business and professional categories through 37 regulatory entities comprised of boards, bureaus, committees, a program, and a commission. These 37 entities set and enforce minimum qualifications for the professions and vocations they regulate, which requires them to promulgate regulations. Prompted by an increase in the number of regulations disapproved by OAL, in late 2016, DCA and Agency changed the process for reviewing regulations. The resulting enhanced scrutiny from DCA and Agency successfully reduced the number of disapproved regulations because it led to a more thorough examination of the regulation packages. However, while the disapproval rates plummeted, a consequence was lengthened timelines to adopt regulations. In the three regulatory packages that have gone through this process to date, the Board has received inconsistent direction from individuals within the same DCA unit. There has also been a lack of coordination between DCA units to ensure that all units have the most current version of documents after the Board makes changes required by one unit prior to the package being referred to another unit for review. All of this causes unnecessary delays from when the Board first approves moving forward with a rulemaking proposal to when we are able to actually begin the official rulemaking process (which itself can take a year). The delays impact the Board's ability to update its regulations in a timely manner, which in turn impacts the Board's operations and its ability to address the needs of its stakeholders. For example, one proposal took nearly three years to go through the pre-notice review process from the time the Board first approved the proposal to when we were finally able to notice the proposal. (See Risk entitled Standardization of Board's Fees for further information.)

Control: DCA Pre-Notice Regulatory Review Process - Board Will Continue to Work with DCA to Ensure Timely Review of the Board's Regulatory Proposals

DCA was authorized in the 2019 Budget Act to hire six attorneys, a Senior Legal Analyst, and a

Research Program Specialist II to increase its capacity for developing, reviewing, and issuing regulations. DCA's attorneys are being trained by OAL to review regulations. DCA is also conducting training of all participants in the regulation process to improve regulation packages and timelines, which Board staff has and will continue to attend. In addition, DCA is developing a department-wide computerized regulation management and tracking system to better track and streamline the review of regulations; Board staff is awaiting the department-wide launch of this new system. Board staff will continue to work with DCA, especially the Legal Office, to ensure that the review of the Board's regulatory proposals is done in a timely and consistent manner.

Risk: Standardization of Board Fees

Based on our internal data tracking and projections, it appears that the Board's budget will face a structural imbalance within the current and next fiscal years. Although we are unable to definitively confirm this or verify the projected amounts of the imbalance due to the lack of timely FI\$Cal reports, we are comfortable in our internal data tracking and projections. Because of this structural imbalance and the need to standardize fees across all professions the Board regulates, the Board determined that it was necessary to pursue a rulemaking proposal to update the regulations that specify the exact amount of the fees applicants and licensees must pay (for such things as application fees, examination fees, and renewal fees). Using the data available, Board staff made a good faith effort to set the new fees at appropriate levels; however, without the FI\$Cal reports, it is possible that the amounts are not what they should be. However, the Board determined that it was necessary to move forward to avoid further exacerbating the imbalance to the detriment of its stakeholders and the Board's ability to provide the necessary services. The Board approved the new proposed fees and rulemaking proposal in November 2018. However, the Board was notified by DCA in April 2019 that the pre-notice review process could not officially begin until the Board re-approved the proposal. This was done in May 2019, and the proposal was resubmitted to DCA along with a request that the pre-notice review process be expedited so that the new fees would go into effect by January 1, 2020. As addressed in the Risk entitled DCA Pre-Notice Regulatory Review Process, there were unnecessary delays in the review process, and the proposal was not submitted to Agency until September 2019 and was not approved by Agency until November 14, 2019. The rulemaking proposal was officially noticed for public comment by OAL and the Board on November 29, 2019. Because of these delays, it is no longer possible for us to complete the official rulemaking process in time for the new fees to go into effect on January 1, 2020. The Board hopes that the rulemaking proposal will receive final approval by OAL in time for the new fees to become effective on July 1, 2020. This delay will negatively impact the Board's fund, putting the Board in jeopardy of not being able to carry out its legislative mandate.

Control: Standardization of Board Fees - Continued Monitoring by Board Staff of Internal Tracking of Budget Data

As noted in the other identified risks, the Board has no ability or authority to control the risks caused by the delays in timely receiving FI\$Cal reports nor those caused by the pre-notice regulatory review process instituted by DCA and BCSH. Board staff does closely monitor the Board's budget through its own internal data tracking and provides the Board with information so that the Board can make informed decisions about what programs or services should be reduced or cut in order to save money to postpone the structural imbalance of the fund. If it were not for the delays caused by the lack of current financial reporting data due to FI\$Cal and the delays caused

by the pre-notice regulatory review process, the Board would have been able to adjust its fees in a more timely manner. The Board and its staff will continue to closely monitor revenue and expenditures through its own internal data tracking, especially after the new fees do become effective, in order to ensure that the new fees are appropriate and to determine if changes will need to be made in the next few years.

Risk: DCA Business Modernization Cohort 1

The Board is part of DCA's Business Modernization Cohort 1, along with three other DCA boards/bureaus, for the development and implementation of a new licensing and case management (enforcement) system. The Board currently uses the Applicant Tracking System (ATS) and the Consumer Affairs System (CAS) which are outdated and do not meet the Board's current or future needs. The Board, with the support and assistance of DCA's Office of Information Systems (OIS), has completed Stages 1, 2, and 3 of the California Department of Technology's (CDT) Project Approval Lifecycle (PAL) process. The Board, DCA, CDT, and the other three DCA boards/bureaus are now moving through the solicitation/evaluation/contracting phase to secure an appropriate platform, system integrator, and project management consultation to develop and implement the new system. It is anticipated that the project will begin in January 2020. There is a risk to the Board if the process does not continue to move along at its current pace because ATS and CAS will become more outdated and unworkable, and the Board will not be able to provide services to its stakeholders in a timely and efficient manner, as it will be able to do when the new system is implemented.

Control: DCA Business Modernization Cohort 1 - Continued Monitoring of Project Phases to Ensure Timely Development and Implementation

While some of the control for this is outside the Board's authority, the Board does ensure that it responds to all requests for information and clarification from DCA and CDT expeditiously. The Board has already identified staff who will be assigned to work as "subject matter experts" on the project during the development phase(s) and will be taking steps to ensure that the "normal" work of the identified staff will still be performed as needed by others. The Board will continue to work with DCA, CDT, and the other three DCA boards/bureaus to ensure a timely and successful implementation.

CONCLUSION

The Board for Professional Engineers, Land Surveyors, and Geologists 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.

Richard B. Moore, PLS, Executive Officer

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